CONSTITUTION

OF

THE STATE OF MISSOURI.

NOVEMBER 14, 1820.

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CONSTITUTION OF MISSOURI.

We, the people of Missouri, inhabiting the limits hereinafter designated, by our representatives in convention assembled, at St. Louis, on Monday, the 12th day of June, 1820, do mutually agree to form and establish a free and independent republic, by the name of "The State of Missouri," and for the government thereof do ordain and establish this constitution.

ARTICLE I.

OF BOUNDARIES.

We do declare, establish, ratify, and confirm the following as the permanent boundaries of said state, that is to say: "Beginning in the middle of the Mississippi river, on the parallel of thirty-six degrees of north latitude; thence, west, along the said parallel of latitude, to the St. Francois river; thence, up, and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude of thirty-six degrees and thirty minutes; thence, west, along the same, to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence, from the point aforesaid, north, along the said meridian line, to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line correspond with the Indian boundary line; thence, east, from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence, down, and along the middle of the main channel of the said river Des Moines, to the mouth of the same, where it empties into the Mississippi river; thence, due east, to the middle of the main channel of the Mississippi river; thence, down, and following the course of the Mississippi river, in the middle of the main channel thereof, to the place of beginning."

ARTICLE II.

OF THE DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct departments, each of which shall be confided to a separate magistracy; and no person charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

OF THE LEGISLATIVE POWER.

SEC. 1. The legislative power shall be vested in a "General Assembly," which shall consist of a "Senate," and of a "House of Representatives."

SEC. 2. The house of representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties. Each county shall have at least one representative, but the whole number of representatives shall never exceed one hundred.

SEC. 3. No person shall be a member of the house of representatives who shall not have attained to the age of twenty-four years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this state two years, and of the county which he represents, one year, next before his election, if such county shall have been so long established, but, if not, then of the county or counties from which the same shall have been taken; and who shall not, moreover, have paid a state or county tax.

SEC. 4. The general assembly, at their first session, and in the years one thousand eight hundred and twenty-two, and one thousand eight hundred and twenty-four, respectively, and every fourth year thereafter, shall cause an enumeration of the inhabitants of this state to be made; and, at the first session after each enumeration, shall apportion the number of representatives among the several counties, according to the number of free white male inhabitants therein.

SEC. 5. The senators shall be chosen by the qualified electors for the term of four years. No person shall be a senator who shall not have attained to the age of thirty years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this state four years, and of the district which he may be chosen to represent, one year, next before his election, if such district shall have been so long established, but, if not, then of the district or districts from which the same shall have been taken; and, who shall not, moreover, have paid a state or county tax.

SEC. 6. The senate shall consist of not less than fourteen, nor more than thirty-three members; for the election of whom the state shall be divided into convenient districts, which may be altered from time to time, and new districts established, as public convenience may require; and the senators shall be apportioned among the

several districts according to the number of free white male inhabitants in each; provided, that when a senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

Sec. 7. At the first session of the general assembly the senators shall be divided by lot, as equally as may be, into two classes. The seats of the first class shall be vacated at the end of the second year, and the seats of the second class at the end of the fourth year, so that one half of the senators shall be chosen every second year.

Sec. 8. After the first day of January, one thousand eight hundred and twenty-two, all general elections shall commence on the first Monday in August, and shall be held biennially; and the electors, in all cases, except of treason, felony, or breach of the peace, shall be privileged from arrest during their continuance at elections, and in going to, and returning from, the same.

Sec. 9. The governor shall issue writs of election to fill such vacancies as may occur in either house of the general assembly.

Sec. 10. Every free white male citizen of the United States who shall have attained to the age of twenty-one years, and who shall have resided in this state one year before an election, the last three months whereof shall have been in the county, or district, in which he offers to vote, shall be deemed a qualified elector of all elective offices; provided, that no soldier, seaman, or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this state.

Sec. 11. No judge of any court of law or equity, secretary of state, attorney general, state auditor, state or county treasurer, register, or recorder, clerk of any court of record, sheriff, coroner, member of Congress, nor other person holding any lucrative office under the United States, or this state, militia officers, justices of the peace, and post-masters excepted, shall be eligible to either house of the general assembly.

Sec. 12. No person who now is, or who hereafter may be, a collector or holder of public money, nor any assistant or deputy of such collector or holder of public money, shall be eligible to either house of the general assembly, nor to any office of profit or trust, until he sahll have accounted for and paid all sums for which he may be accountable.

Sec. 13. No person while he continues to exercise the functions of a bishop, priest, clergyman, or teacher of any religious persuasion, denomination, society, or sect, whatsoever, shall be eligible to either house of the general assembly; nor shall he be appointed to any office of profit within the state, the office of justice of the peace excepted.

Sec. 14. The general assembly shall have power to exclude from every office of honor, trust, or profit, within this state, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

Sec. 15. Every person who shall be convicted of having, directly or indirectly, given or offered any bribe to procure his election or appointment, shall be disqualified for any office of honor, trust, or profit, under this state; and any person who shall give or offer any bribe to procure the election or appointment of any other person, shall, on conviction thereof, be disqualified for an elector, or for any office of honor, trust, or profit, under this state, for ten years after such conviction.

Sec. 16. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this state, which shall have been created, or the emoluments of which shall have been increased, during his continuance in office, except to such offices as shall be filled by elections of the people.

Sec. 17. Each house shall appoint its own officers, and shall judge of the qualifications, elections, and returns, of its own members. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

Sec. 18. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds of all the members elected, expel a member, but no member shall be expelled a second time for the same cause. They shall each, from time to time, publish a journal of their proceedings, except such parts as may in their opinion require secrecy; and the yeas and nays on any question shall be entered on the journal at the desire of any two members.

Sec. 19. The doors of each house, and of committees of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish, by fine or imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence, during their session; provided, that such fine shall not exceed three hundred dollars, and such imprisonment shall not exceed forty-eight hours for one offence.

Sec. 20. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than to that in which the two houses may be sitting.

Sec. 21. Bills may originate in either house, and may be altered, amended, or rejected, by the other; and every bill shall be read on three different days in each house, unless two-thirds of the house where the same is depending shall dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker of the house of representatives, and by the president of the senate.

Sec. 22. When any officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the votes shall be publicly given viva voce, and entered on the journals. The whole list of the members shall be called, and the names of absentees shall be noted and published with the journal.

Sec. 23. Senators and representatives shall, in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house they shall not be questioned in any other place.

Sec. 24. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which may, from time to time, be increased or diminished by law; but no alteration increasing or tending to increase the compensation of members, shall take effect during the session at which such alterations shall be made.

Sec. 25. The general assembly shall direct, by law, in what manner, and in what courts, suits may be brought against the state.

Sec. 26. The general assembly shall have no power to pass laws; First, For the emancipation of slaves without the consent of their owners, or without paying them, before such emancipation, a full equivalent for such slaves so emancipated; and, Second, To prevent bona fide emigrants to this state, or actual settlers therein, from bringing from any of the United States, or from any of their territories, such persons as may there be deemed to be slaves, so long as any persons of the same description are allowed to be held as slaves by the laws of this state.

They shall have power to pass laws; First, To prohibit the introduction into this state of any slave who may have committed any high crime in any other state or territory; Second, To prohibit the introduction of any slave for the purpose of speculation, or as an article of trade or merchandise; Third, To prohibit the introduction of any slave, or the offspring of any slave, who heretofore may have been, or who hereafter may be, imported from any foreign country into the United States, or any territory thereof, in contravention of any existing statute of the United States; and, Fourth, To permit the owners of slaves to emancipate them, saving the rights of creditors, where the person so emancipating will give security that the slave so emancipated shall not become a public charge.

It shall be their duty, as soon as may be, to pass such laws as may be necessary,

First, To prevent free negroes and mulattoes from coming to, and settling in, this state, under any pretext whatsoever; and,

Second, To oblige the owners of slaves to treat them with humanity, and to abstain from all injuries to them extending to life or limb.

Sec. 27. In prosecutions for crimes, slaves shall not be deprived of an impartial trial by jury; and a slave convicted of a capital offence shall suffer the same degree of punishment, and no other, that would be inflicted on a free white person for a like offence; and courts of justice before whom slaves shall be tried, shall assign them counsel for their defence.

Sec. 28. Any person who shall maliciously deprive of life or dis-

member a slave, shall suffer such punishment as would be inflicted for the like offence if it were committed on a free white person.

Sec. 29. The governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, and all judges of the courts of law and equity, shall be liable to impeachment for any misdemeanor in office; but judgment in such case shall not extend farther than removal from office, and disqualification to hold any office of honor, trust, or profit, under this state. The party impeached, whether convicted or acquitted, shall, nevertheless, be liable to be indicted, tried and punished, according to law.

Sec. 30. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the presiding judge of the supreme court shall preside; and no person shall be convicted without the concurrence of two thirds of all the senators present.

Sec. 31. A state treasurer shall be biennially appointed by joint vote of the two houses of the general assembly, who shall keep his office at the seat of government. 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. 32. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law; and all officers, both civil and military, under the authority of this state, shall, before entering on the duties of their respective offices, take an oath or affirmation to support the constitution of the United States, and of this state, and to demean themselves faithfully in office.

Sec. 33. The general assembly shall meet on the third Monday in September next; on the first Monday in November, eighteen hundred and twenty one; on the first Monday in November, eighteen hundred and twenty-two; and thereafter the general assembly shall meet once in every two years, and such meeting shall be on the first Monday in November, unless a different day shall be appointed by law.

Sec 34. No county now established by law shall ever be reduced, by the establishment of new counties, to less than twenty miles square; nor shall any county hereafter be established which shall contain less than four hundred square miles.

Sec. 35. Within five years after the adoption of this constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested, and promulgated, in such manner as the general assembly shall direct, and a like revision, digest, and promulgation, shall be made at the expiration of every subsequent period of ten years.

Sec. 36. The style of the laws of this state shall be—"Be it enacted by the general assembly of the state of Missouri."

ARTICLE IV.

OF THE EXECUTIVE POWER.

SEC. 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The Governor of the state of Missouri."

SEC. 2. The governor shall be at least thirty-five years of age, and a natural born citizen of the United States, or a citizen at the adoption of the constitution of the United States, or an inhabitant of that part of Louisiana now included in the state of Missouri at the time of the cession thereof from France to the United States, and shall have been a resident of the same at least four years next before his election.

SEC. 3. The governor shall hold his office for four years, and until a successor be duly appointed and qualified. He shall be elected in the manner following: At the time and place of voting for members of the house of representatives, the qualified electors shall vote for a governor; and when two or more persons have an equal number of votes, and a higher number than any other person, the election shall be decided between them by a joint vote of both houses of the general assembly at their next session.

SEC. 4. The governor shall be ineligible for the next four years after the expiration of his term of service.

SEC. 5. The governor shall be commander in chief of the militia and navy of this state, except when they shall be called into the service of the United States; but he need not command in person, unless advised so to do by a resolution of the general assembly.

SEC. 6. The governor shall have power to remit fines and forfeitures, and, except in cases of impeachment, to grant reprieves and pardons.

SEC. 7. The governor shall, from time to time, give to the general assembly information relative to the state of the government, and shall recommend to their consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the general assembly by proclamation, and shall state to them the purposes for which they are convened.

SEC. 8. The governor shall take care that the laws be distributed, and faithfully executed; and he shall be a conservator of the peace throughout the state.

SEC. 9. When any office shall become vacant, the governor shall appoint a person to fill such vacancy, who shall continue in office until a successor be duly appointed and qualified according to law.

SEC. 10. Every bill which shall have been passed by both houses of the general assembly, shall, before it becomes a law, be presented to the governor for his approbation. If he approve, he shall sign it; if not, he shall return it, with his objections, to the house in which it shall have originated, and the house shall cause the objections to be entered at large on its journals, and shall proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall be in

like manner reconsidered, and, if approved by a majority of all the members elected to that house, it shall become a law. In all such cases the votes of both houses shall be taken by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if the governor had signed it, unless the general assembly, by its adjournment, shall prevent its return, in which case it shall not become a law.

Sec. 11. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except on cases of adjournment, shall be presented to the governor, and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

Sec. 12. There shall be an auditor of public accounts, whom the governor, by and with the advice and consent of the senate, shall appoint. He shall continue in office four years, and shall perform such duties as may be prescribed by law. His office shall be kept at the seat of government.

Sec. 13. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall neither be increased nor diminished during his continuance in office, and which shall never be less than two thousand dollars annually.

Sec. 14. There shall be a lieutenant governor, who shall be elected at the same time, in the same manner, for the same term, and shall possess the same qualifications, as the governor. The electors shall distinguish for whom they vote as governor, and for whom as lieutenant governor.

Sec. 15. The lieutenant governor shall, by virtue of his office, be president of the senate. In committee of the whole he may debate on all questions; and when there is an equal division, he shall give the casting vote in senate, and also in joint votes of both houses.

Sec. 16. When the office of governor shall become vacant by death, resignation, absence from the state, removal from office, refusal to qualify, impeachment, or otherwise, the lieutenant governor, or, in case of like disability on his part, the president of the senate pro-tempore, or, if there be no president of the senate pro tempore, the speaker of the house of representatives, shall possess all the powers, and discharge all the duties, of governor, and shall receive for his services the like compensation, until such vacancy be filled, or the governor so absent or impeached shall return or be acquitted.

Sec. 17. Whenever the office of governor shall become vacant, by death, resignation, removal from office, or otherwise, the lieutenant governor, or other person exercising the powers of governor for the time being, shall, as soon as may be, cause an election to be held to fill such vacancy, giving three months' previous notice thereof; and the person elected shall not thereby be rendered ineligible to the office of governor for the next succeeding term. Nevertheless, if such vacancy shall happen within eighteen months of the end of the term

for which the late governor shall have been elected, the same shall not be filled.

Sec. 18. The lieutenant governor, or president of the senate pro tempore, while presiding in the senate, shall receive the same compensation as shall be allowed to the speaker of the house of representatives.

Sec. 19. The returns of all elections of governor and lieutenant governor shall be made to the secretary of state, in such manner as may be prescribed by law.

Sec. 20. Contested elections of governor and lieutenant governor shall be decided by joint vote of both houses of the general assembly, in such manner as may be prescribed by law.

Sec. 21. There shall be a secretary of state, whom the governor, by and with the advice and consent of the senate, shall appoint. He shall hold his office four years, unless sooner removed on impeachment. He shall keep a register of all the official acts and proceedings of the governor, and when necessary shall attest them; and he shall lay the same, together with all papers relative thereto, before either house of the general assembly, whenever required so to do, and shall perform such other duties as may be enjoined on him by law.

Sec. 22. The secretary of state shall, as soon as may be, procure a seal of state, with such emblems and devices as shall be directed by law, which shall not be subject to change. It shall be called the "Great Seal of the State of Missouri," shall be kept by the secretary of state, and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

Sec. 23. There shall be appointed in each county a sheriff and a coroner, who, until the general assembly shall otherwise provide, shall be elected by the qualified electors at the time and place of electing representatives. They shall serve for two years, and until a successor be duly appointed and qualified, unless sooner removed for misdemeanor in office, and shall be ineligible four years in any period of eight years. The sheriff and coroner shall each give security for the faithful discharge of the duties of his office, in such manner as shall be prescribed by law. Whenever a county shall be hereafter established, the governor shall appoint a sheriff and coroner therein, who shall each continue in office until the next succeeding general election, and until a successor shall be duly qualified.

Sec. 24. When vacancies happen in the office of sheriff or coroner, they shall be filled by appointment of the governor; and the persons so appointed shall continue in office until successors shall be duly qualified, and shall not be thereby rendered ineligible for the next succeeding term.

Sec. 25. In all elections of sheriff and coroner, when two or more persons have an equal number of votes, and a higher number than any other person, the circuit courts of the counties, respectively, shall give the casting vote; and all contested elections for the said offices shall be decided by the circuit courts, respectively, in such manner as the general assembly may by law prescribe.

ARTICLE V.

OF THE JUDICIAL POWER.

SEC. 1. The judicial powers, as to matters of law and equity, shall be vested in a "supreme court," in a "chancellor," in "circuit courts," and in such inferior tribunals as the general assembly may, from time to time, ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, under the restrictions and limitations in this constitution provided.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts of law. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, and other original remedial writs, and to hear and determine the same.

SEC. 4. The supreme court shall consist of three judges, any two of whom shall be a quorum; and the said judges shall be conservators of the peace throughout the state.

SEC. 5. The state shall be divided into convenient districts, not to exceed four, in each of which the supreme court shall hold two sessions annually, at such place as the general assembly shall appoint; and, when sitting in either district, it shall exercise jurisdiction over causes originating in that district only: Provided, however, that the general assembly may, at any time hereafter, direct, by law, that the said court shall be held at one place only.

SEC. 6. The circuit court shall have jurisdiction over all criminal cases which shall not be otherwise provided for by law, and exclusive original jurisdiction in all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly. It shall hold its terms in such place in each county as may be by law directed.

SEC. 7. The state shall be divided into convenient circuits, for each of which a judge shall be appointed, who, after his appointment, shall reside, and be a conservator of the peace, within the circuit for which he shall be appointed.

SEC. 8. The circuit courts shall exercise a superintending control over all such inferior tribunals as the general assembly may establish, and over justices of the peace in each county in their respective circuits.

SEC. 9. The jurisdiction of the court of chancery shall be co-extensive with the state, and the times and places of holding its sessions shall be regulated in the same manner as those of the supreme court.

SEC. 10. The court of chancery shall have original and appellate jurisdiction in all matters of equity, and a general control over executors, administrators, guardians, and minors, subject to appeal, in all cases, to the supreme court, under such limitations as the general assembly may, by law, provide.

Sec. 11. Until the general assembly shall deem it expedient to establish inferior courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the court of chancery, in such manner, and under such restrictions, as shall be prescribed by law.

Sec. 12. Inferior tribunals shall be established in each county for the transaction of all county business; for appointing guardians; for granting letters testamentary, and of administration; and for settling the accounts of executors, administrators, and guardians.

Sec. 13. The governor shall nominate, and, by and with the advice and consent of the senate, appoint, the judges of the supreme court, the judges of the circuit courts, and the chancellor, each of whom shall hold his office during good behavior, and shall receive for his services a compensation, which shall not be diminished during his continuance in office, and which shall not be less than two thousand dollars annually.

Sec. 14. No person shall be appointed a judge of the supreme court, nor of a circuit court, nor chancellor, before he shall have attained to the age of thirty years; nor shall any person continue to exercise the duties of any of said offices after he shall have attained to the age of sixty-five years.

Sec. 15. The courts, respectively, shall appoint their clerks, who shall hold their offices during good behavior. For any misdemeanor in office they shall be liable to be tried and removed by the supreme court, in such manner as the general assembly shall by law provide.

Sec. 16. Any judge of the supreme court, or of the circuit court, or the chancellor, may be removed from office on the address of two-thirds of each house of the general assembly to the governor for that purpose; but each house shall state, on its respective journal, the cause for which it shall wish the removal of such judge or chancellor, and give him notice thereof; and he shall have the right to be heard in his defence in such manner as the general assembly shall by law direct; but no judge nor chancellor shall be removed in this manner for any cause for which he might have been impeached.

Sec. 17. In each county there shall be appointed as many justices of the peace as the public good may be thought to require. Their powers and duties, and their duration in office, shall be regulated by law.

Sec. 18. An attorney general shall be appointed by the governor, by and with the advice and consent of the senate. He shall remain in office four years, and shall perform such duties as shall be required of him by law.

Sec. 19. All writs and process shall run, and all prosecutions shall be conducted, in the name of the "State of Missouri;" all writs shall be tested by the clerk of the court from which they shall be issued, and all indictments shall conclude, "against the peace and dignity of the state."

ARTICLE VI.

OF EDUCATION.

SEC. 1. Schools, and the means of education, shall forever be encouraged in this state; and the general assembly shall take measures to preserve, from waste or damage, such lands as have been, or may hereafter be, granted by the United States for the use of schools within each township in this state, and shall apply the funds, which may arise from such lands, in strict conformity to the object of the grant, and one school, or more, shall be established in each township as soon as practicable and necessary, where the poor shall be taught gratis.

SEC. 2. The general assembly shall take measures for the improvement of such lands as have been, or hereafter may be, granted by the United States to this state for the support of a seminary of learning; and the funds accruing from such lands, by rent or lease, or in any other manner, or which may be obtained from any other source, for the purposes aforesaid, shall be and remain a permanent fund to support a university for the promotion of literature, and of the arts and sciences; and it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement of such lands, and for the improvement and permanent security of the funds and endowments of such institution.

ARTICLE VII.

OF INTERNAL IMPROVEMENT.

Internal improvement shall forever be encouraged by the government of this state; and it shall be the duty of the general assembly, as soon as may be, to make provision by law for ascertaining the most proper objects of improvement, in relation both to roads and navigable waters; and it shall also be their duty to provide by law for a systematic and economical application of the funds appropriated to those objects.

ARTICLE VIII.

OF BANKS.

The general assembly may incorporate one banking company, and no more, to be in operation at the same time. The bank to be incorporated may have any number of branches, not to exceed five, to be established by law; and not more than one branch shall be established at any one session of the general assembly. The capital stock of the bank to be incorporated shall never exceed five millions of dollars, at least one half of which shall be reserved for the use of the state.

ARTICLE IX.

OF THE MILITIA.

SEC. 1. Field officers and company officers shall be elected by the persons subject to militia duty within their respective commands;

brigadiers general shall be elected by the field officers of their respective brigades; and majors general by the brigadiers and field officers of their respective divisions, until otherwise directed by law.

SEC. 2. General and field officers shall appoint their officers of the staff.

SEC. 3. The governor shall appoint an adjutant general, and all other militia officers, whose appointments are not otherwise provided for in this constitution.

ARTICLE X.

OF MISCELLANEOUS PROVISIONS.

SEC. 1. The general assembly of this state shall never interfere with the primary disposal of the soil by the United States, nor with any regulation Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States, nor shall lands belonging to persons residing out of the limits of this state ever be taxed higher than the lands belonging to persons residing within the state.

SEC. 2. The state shall have concurrent jurisdiction on the river Mississippi, and on every other river bordering on the said state, so far as the said river shall form a common boundary to the said state, and any other state or states, now, or hereafter to be, formed and bounded by the same; and the said river Mississippi, and the navigable rivers and waters leading into the same, whether bordering on or within this state, shall be common highways, and forever free to the citizens of this state and of the United States, without any tax, duty, impost, or toll, therefor, imposed by the state.

ARTICLE XI.

OF THE PERMANENT SEAT OF GOVERNMENT.

SEC. 1. The general assembly, at their first session, shall appoint five commissioners, for the purpose of selecting a place for the permanent seat of government, whose duty it shall be to select four sections of the land of the United States, which shall not have been exposed to public sale.

SEC. 2. If the commissioners believe the four sections of land so by them to be selected, be not a suitable and proper situation for the permanent seat of government, they shall select such other place as they deem most proper for that purpose, and report the same to the general assembly at the time of making their report, provided for in the first section of this article; provided, that no place shall be selected which is not situated on the bank of the Missouri river, and within forty miles of the mouth of the river Osage.

SEC. 3. If the general assembly determine that the four sections of land, which may be selected by authority of the first section of this article, be a suitable and proper place for the permanent seat of

government, the said commissioners shall lay out a town thereon, under the direction of the general assembly; but, if the general assembly deem it most expedient to fix the permanent seat of government at the place to be selected by authority of the second section of this article, they shall so determine, and, in that event, shall authorize the said commissioners to purchase any quantity of land, not exceeding six hundred and forty acres, which may be necessary for the purpose aforesaid; and the place so selected shall be the permanent seat of government of this state, from and after the first day of October, one thousand eight hundred and twenty-six.

SEC. 4. The general assembly, in selecting the above mentioned commissioners, shall choose one from each extreme part of the state, and one from the centre, and it shall require the concurrence of at least three of the commissioners to decide upon any part of the duties assigned them.

ARTICLE XII.

MODE OF AMENDING THE CONSTITUTION.

The general assembly may, at any time, propose such amendments to this constitution as two thirds of each house shall deem expedient, which shall be published in all the newspapers published in this state, three several times, at least twelve months before the next general election; and if, at the first session of the general assembly, after such general election, two thirds of each house shall, by yeas and nays, ratify such proposed amendments, they shall be valid to all intents and purposes, as parts of this constitution; provided, that such proposed amendments shall be read on three several days, in each house, as well when the same are proposed, as when they are finally ratified.

ARTICLE XIII.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare,

1. That all political power is vested in, and derived from, the people.

2. 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.

3. That the people have the right peaceably to assemble for their common good, and to apply to those vested with the powers of government for redress of grievances, by petition or remonstrance; and that their right to bear arms, in defence of themselves and of the state, cannot be questioned.

4. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can be compelled to erect, support, or attend any place

of worship, or to maintain any minister of the gospel, or teacher of religion; that no human authority can control or interfere with the rights of conscience; that no person can ever be hurt, molested, or restrained in his religious profession or sentiments, if he do not disturb others in their religious worship.

5. That no person, on account of his religious opinions, can be rendered ineligible to any office of trust or profit under this state; that no preference can ever be given by law to any sect or mode of worship; and that no religious corporation can ever be established in this state.

6. That all elections shall be free and equal.

7. That courts of justice ought to be open to every person, and certain remedy afforded for every injury to person, property, or character; and that right and justice ought to be administered without sale, denial, or delay; and that no private property ought to be taken or applied to public use without just compensation.

8. That the right of trial by jury shall remain inviolate.

9. That, in all criminal prosecutions, the accused has the right to be heard by himself and his counsel; to demand the nature and cause of accusation; to have compulsory process for witnesses in his favor; to meet the witnesses against him face to face; and, in prosecutions on presentment or indictment, to a speedy trial by an impartial jury of the vicinage; that the accused cannot be compelled to give evidence against himself, nor be deprived of life, liberty, or property, but by the judgment of his peers or the law of the land.

10. That no person, after having been once acquitted by a jury, can, for the same offence, be again put in jeopardy of life or limb, but if, in any criminal prosecution, the jury be divided in opinion at the end of the term, the court before which the trial shall be had, may, in its discretion, discharge the jury, and commit or bail the accused for trial at the next term of such court.

11. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great, and the privilege of the writ of habeas corpus cannot be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

12. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

13. That the people ought to be secure in their persons, papers, houses, and effects, from unreasonable searches and seizures; and no warrant to search any place or to seize any person or thing can issue, without describing the place to be searched, or the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

14. That no person can, for an indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, or, by leave of the court, for oppression or misdemeanor in office.

15. That treason against the state can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his own confession in open court; that no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty there ought to be no forfeiture by reason thereof.

16. That the free communication of thoughts and opinions is one of the invaluable rights of man, and that every person may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty. That, in all prosecutions for libels, the truth thereof may be given in evidence, and the jury may determine the law and the facts, under the direction of the court.

17. That no ex-post facto law, nor law impairing the obligation of contracts, or retrospective in its operation, can be passed; nor can the person of a debtor be imprisoned for debt after he shall have surrendered his property for the benefit of his creditors in such manner as may be prescribed by law.

18. That no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service in such manner as shall be prescribed by law; and that no priest, preacher of the gospel, or teacher of any religious persuasion or sect, regularly ordained as such, be subject to militia duty, or compelled to bear arms.

19. That all property subject to taxation in this state shall be taxed in proportion to its value.

20. That no title of nobility, hereditary emolument, privilege, or distinction, shall be granted; nor any office created the duration of which shall be longer than the good behavior of the officer appointed to fill the same.

21. That migration from this state cannot be prohibited.

22. That the military is, and, in all cases, and at all times, shall be, in strict subordination to the civil power; that no soldier can, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in such manner as may be prescribed by law; nor can any appropriation for the support of an army be made for a longer period than two years.

SCHEDULE.

Sec. 1. That no inconvenience may arise from the change of government, we declare, that all writs, actions, prosecutions, judgments, claims, and contracts, of individuals, and of bodies corporate, shall continue as if no change had taken place; and all process which may, before the third Monday in September next, be issued under the authority of the Territory of Missouri, shall be as valid as if issued in the name of the state.

Sec. 2. All laws now in force in the Territory of Missouri, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the general assembly.

Sec. 3. All fines, penalties, forfeitures, and escheats, accruing to the Territory of Missouri, shall accrue to the use of the state.

Sec. 4. All recognizances heretofore taken, or which may be taken before the third Monday in September next, shall remain valid, and shall pass over to, and may be prosecuted in, the name of the state; and all bonds executed to the governor of the territory, or to any other officer or court, in his official capacity, shall pass over to the governor, or other proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions, and penal actions, which have arisen, or which may arise before the third Monday in September next, and which shall then be depending, shall be prosecuted to judgment and execution in the name of the state. All actions at law which now are, or which, on the third Monday in September next, may be, depending in any of the courts of record, in the Territory of Missouri, may be commenced in, or transferred to, any court of record of the state which shall have jurisdiction of the subject matter thereof; and all suits in equity may, in like manner, be commenced in, or transferred to, the court of chancery.

Sec. 5. All officers, civil and military, now holding commissions under authority of the United States, or of the territory of Missouri, shall continue to hold and exercise their respective offices until they shall be superceded under the authority of the state; and all such officers holding commissions under the authority of the territory of Missouri, shall receive the same compensation which they have hitherto received, in proportion to the time they shall be so employed.

Sec. 6. The first meeting of the general assembly shall be at St. Louis, with power to adjourn to any other place; and the general assembly, at the first session thereof, shall fix the seat of government until the first day of October, one thousand eight hundred and twenty six; and the first session of the general assembly shall have power to fix the compensation of the members thereof; any thing in the constitution to the contrary notwithstanding.

Sec. 7. Until the first enumeration shall be made, as directed in this constitution, the county of Howard shall be entitled to eight representatives: the county of Cooper to four representatives; the county of Montgomery to two representatives; the county of Lincoln to one representative; the county of Pike to two representatives; the county of St. Charles to three representatives; the county of St. Louis to six representatives; the county of Franklin to two representatives; the county of Jefferson to one representative; the county of Washington to two representatives; the county of St. Genevieve to four representatives; the county of Cape Girardeau to four representatives; the county of New Madrid to two representatives; the county of Madison to one representative; the county of Wayne to

one representative; and that part of the county of Lawrence situated within this state shall attach to, and form part of, the county of Wayne, until otherwise provided by law, and the sheriff of the county of Wayne shall appoint the judges of the first election, and the place of holding the same, in the part thus attached: and any person who shall have resided within the limits of this state five months previous to the adoption of this constitution, and who shall be otherwise qualified, as prescribed in the third section of the third article thereof, shall be eligible to the house of representatives, any thing in this constitution to the contrary notwithstanding.

Sec. 8. For the first election of senators, the state shall be divided into districts, and the apportionment shall be as follows; that is to say: the counties of Howard and Cooper shall compose one district, and elect four senators; the counties of Montgomery and Franklin shall compose one district, and elect one senator; the county of St. Charles shall compose one district, and elect one senator; the counties of Lincoln and Pike shall compose one district, and elect one senator; the county of St. Louis shall compose one district, and elect two senators; the counties of Washington and Jefferson shall compose one district, and elect one senator; the county of St. Genevieve shall compose one district, and elect one senator; the counties of Madison and Wayne shall compose one district, and elect one senator; the counties of Cape Girardeau and New Madrid shall compose one district, and elect two senators; and, in all cases where a senatorial district consists of more than one county, it shall be the duty of the clerk of the county second named in that district to certify the returns of the senatorial election within their proper county to the clerk of the county first named, within five days after he shall have received the same: and any person who shall have resided within the limits of this state five months previous to the adoption of this constitution, and who shall be otherwise qualified, as prescribed in the fifth section of the third article thereof, shall be eligible to the senate of this state, any thing in this constitution to the contrary notwithstanding.

Sec. 9. The president of the convention shall issue writs of election to the sheriffs of the several counties, (or, in case of vacancy, to the coroners,) requiring them to cause an election to be held, on the fourth Monday in August next, for a governor, a lieutenant governor, a representative in the Congress of the United States for the residue of the sixteenth Congress, a representative for the seventeenth Congress, senators and representatives for the general assembly, sheriffs, and coroners; and the returns of all township elections, held in pursuance thereof, shall be made to the clerk of the proper county, within five days after the day of election; and any person who shall reside within the limits of this state at the time of the adoption of this constitution, and who shall be otherwise qualified, as prescribed in the tenth section of the third article thereof, shall be deemed a qualified elector, any thing in this constitution to the contrary notwithstanding.

SEC. 10. The elections shall be conducted according to the existing laws of the Missouri territory. The clerks of the circuit courts of the several counties shall certify the returns of the election of governor and lieutenant governor, and transmit the same to the speaker of the house of representatives, at the temporary seat of government, in such time that they may be received on the third Monday of September next. As soon as the general assembly shall be organized, the speaker of the house of representatives and the president, pro tempore, of the senate shall, in the presence of both houses, examine the returns, and declare who are duly elected to fill those offices; and, if any two or more persons shall have an equal number of votes, and a higher number than any other person, the general assembly shall determine the election in the manner hereinbefore provided; and the returns of the election for member of Congress shall be made to the secretary of state within thirty days after the day of election.

SEC. 11. The oaths of office, herein directed to be taken, may be administered by any judge or justice of the peace, until the general assembly shall otherwise direct.

SEC. 12. Until a seal of state be provided, the governor may use his private seal.

Done by the representatives of the people of Missouri, in convention assembled, at the town of St. Louis, on the nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the independence of the United States of America the forty-fifth.

DAVID BARTON, *President of the Convention, and Representative from the County of St. Louis.*

From the County of Cape Girardeau.

Stephen Byrd
Alexander Bucknor
James Evans
Joseph M'Ferron
Richard S. Thomas.

From the County of Cooper.

Robert P. Clark
William Sillard
Robert Wallace.

From the County of Franklin.

John G. Heath.

From the County of Howard.

Nicholas S. Burckhartt
Jonathan Smith Findlay
Duff Green
Benjamin H. Reeves
John Ray.

From the County of Jefferson.

S. Hammond.

From the County of Lincoln.

Malcolm Henry.

From the County of Montgomery.

Jonathan Ramsay James Talbott.

From the County of Madison.

Nathaniel Cook.

From the County of New Madrid.

Robert D. Dawson Christo. G. Houts.

From the County of Pike.

Stephen Cleaver.

From the County of St. Charles.

Hiram H. Baber Benjamin Emmons.
Nathan Boone

From the County of St. Genevieve.

R. T. Brown H. Dodge
John D. Cook John Scott.

From the County of St. Louis.

Edw. Bates Wm. Rector
Pr. Chouteau, jun. Thos. F. Riddick
A. M'Nair John C. Sullivan.
Bernd. Pratte

From the County of Washington.

John Rice Jones Samuel Perry.
John Hutchings

From the County of Wayne.

Elijah Bettis.

Attest.

WILLIAM G. PETTUS,
Secretary of the Convention.

AN ORDINANCE

Declaring the assent of the people of the State of Missouri, by their representatives, in convention assembled, to certain conditions and provisions in the act of Congress of the sixth of March, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and to prohibit slavery in certain territories."

Whereas the act of Congress of the United States of America, approved March the sixth, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and to prohibit slavery in certain territories," contains certain requisitions and provisions, and, among other things, has offered to this convention, when formed, for and in behalf of the people inhabiting this state, for their free acceptance or rejection, the five following propositions, and which, if accepted by this convention, in behalf of the people as aforesaid, are to be obligatory on the United States, viz: "First; That section numbered sixteen in every township, and "when such section has been sold or otherwise disposed of, other "lands equivalent thereto, and as contiguous as may be, shall be "granted to the state for the use of the inhabitants of such township "for the use of schools. Second; That all salt springs, not exceeding "twelve in number, with six sections of land adjoining to each, shall "be granted to the said state for the use of said state, the same to be "selected by the legislature of said state, on or before the first day of "January, in the year one thousand eight hundred and twenty-five, "and the same, when so selected, to be used under such terms, con-"ditions and regulations, as the legislature of said state shall direct; "provided, that no salt spring, the right whereof, now is, or hereaf-"ter shall be, confirmed or adjudged to any individual or individuals, "shall, by this section, be granted to said state; and provided, also, "that the legislature shall never sell or lease the same at any one time "for a longer period than ten years, without the consent of Congress. "Third; That five per cent. of the nett proceeds of the sale of lands "lying within the said territory or state, and which shall be sold by "Congress, from and after the first day of January next, after de-"ducting all expenses incident to the same, shall be reserved for "making public roads and canals, of which three-fifths shall be "applied to those objects within the state, under the direction of the

"legislature thereof, and the other two-fifths in defraying, under "the direction of Congress, the expenses to be incurred in making of "a road or roads, canal or canals, leading to the said state. Fourth; "That four entire sections of land be, and the same are hereby, "granted to the said state, for the purpose of fixing their seat of "government thereon; which said sections shall, under the direction "of the legislature of said state, be located, as near as may be, in "one body, at any time, in such townships and ranges as the legis-"lature aforesaid may select, on any of the public lands of the Unit-"ed States; provided, that such location shall be made prior to the "public sale of the lands of the United States surrounding such lo-"cation. Fifth; That thirty-six sections, or one entire township, "which shall be designated by the President of the United States, "together with the other lands heretofore reserved for that purpose, "shall be reserved for the use of a seminary of learning, and vested "in the legislature of said state, to be appropriated solely for the "use of such seminary, by the Legislature."

Now, this convention, for and in behalf of the people inhabiting this state, and by the authority of the said people, do accept the five before recited propositions offered by the act of Congress under which they are assembled; and, in pursuance of the conditions, requisitions, and other provisions, in the before recited act of Congress contained, this convention, for and in behalf of the people inhabiting this state, do ordain, agree, and declare, that every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax laid by order, or under the authority, of the state, whether for state, county, or township, or any other purpose whatever, for the term of five years, from and after the respective days of sale thereof; and that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt as aforesaid from taxation for the term of three years, from and after the date of the patents respectively: Provided, nevertheless, that, if the Congress of the United States shall consent to repeal and revoke the following clause in the fifth proposition of the sixth section of the act of Congress before recited, and in these words, viz. "That every and each tract of land, sold by the United States from and after the first day of January next, shall remain exempt from any tax laid by order, or under the authority, of the state, whether for state, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale, and further," that this convention, for and in behalf of the people of the state of Missouri, do hereby ordain, consent and agree, that the same be so revoked and repealed, without which consent of the Congress as aforesaid, the said clause to remain in full force and operation as first above provided for in this ordinance: and this convention doth hereby request the Congress of the United States so to modify their third proposition, that the whole amount of five per cent. on the sale of public lands therein offered may be applied to the construction of

roads and canals, and the promotion of education, within this state, under the direction of the legislature thereof. And this convention, for and in behalf of the people inhabiting this state, and by the authority of the said people, do further ordain, agree, and declare, that this ordinance shall be irrevocable without the consent of the United States.

Done in convention, at St. Louis, in the state of Missouri, this nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the independence of the United States of America the forty-fifth.

By order of the Convention,

DAVID BARTON, President.

Attest,

WILLIAM G. PETTUS, Secretary.

STATE OF MISSOURI,

ST. LOUIS, SEPTEMBER 27, 1820.

I, David Barton, president of the convention of the late territory of Missouri, certify the foregoing to be true copies of the constitution of said state, and of "An ordinance declaring the assent of the people of the state of Missouri, by their representatives in convention assembled, to certain conditions and provisions in the act of Congress of the sixth of March, one thousand eight hundred and twenty, entitled 'An act to authorize the people of Missouri territory to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states, and to prohibit slavery in certain territories."

DAVID BARTON.