

<http://stores.ebay.com/Ancestry-Found>

JK 4525

1895

.M3

Copy 1

<http://stores.ebay.com/Ancestry-Found>

JK 4525

1895

.M3

Copy 1

JK

4525

1895

. M3

<http://stores.ebay.com/Ancestry-Found>

Central Government
Alabama
1895

LIBRARY OF CONGRESS.

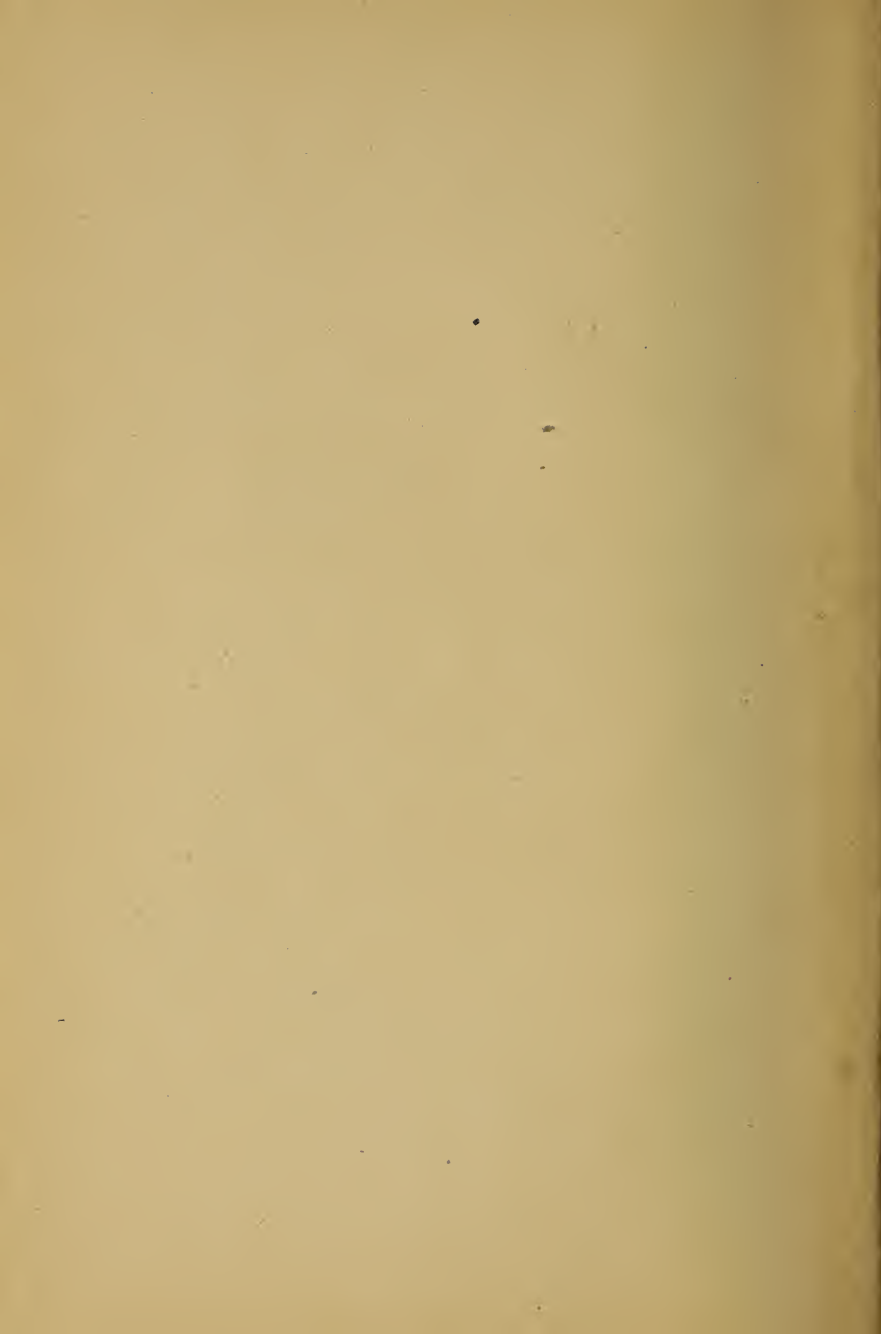
Chap. Copyright No.

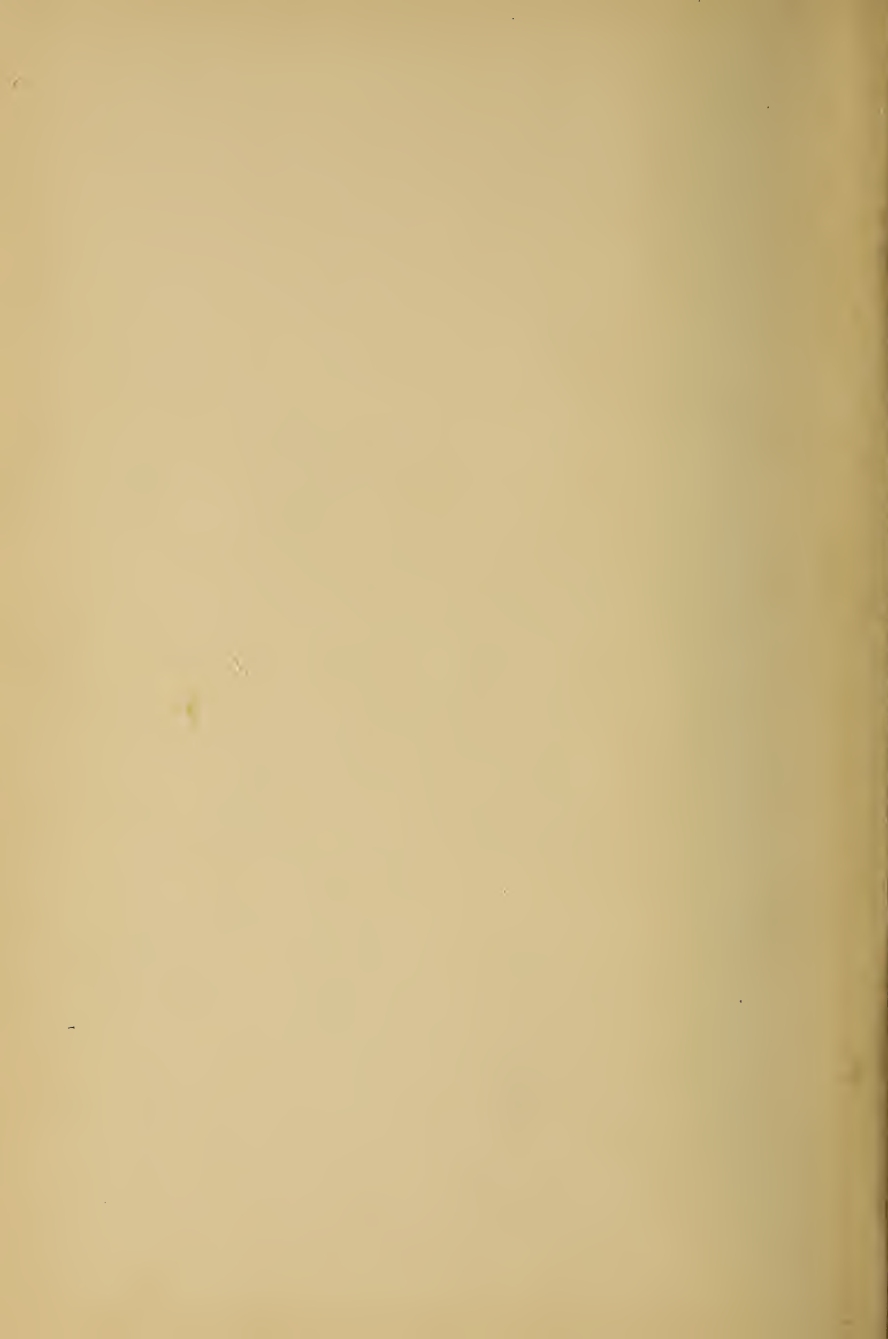
Shelf JK 4525
1895

UNITED STATES OF AMERICA.

M 3









THE
GOVERNMENT OF THE PEOPLE
OF THE STATE OF
ALABAMA

BY
THOMAS C. McCORVEY, A. M., LL. B.
PROFESSOR OF HISTORY AND PHILOSOPHY, UNIVERSITY OF ALABAMA



41293
aa'

PHILADELPHIA
ELDREDGE & BROTHER
No. 17 North Seventh Street
1895

JK 4525
1895
M3

Entered, according to Act of Congress, in the year 1895, by
ELDREDGE & BROTHER,
in the Office of the Librarian of Congress, at Washington.

WESTCOTT & THOMSON,
ELECTROTYPERS, PHILADA.



THE growing demand for instruction in Civics was emphasized by the recommendation of the Governor of Alabama, in his special message on educational matters to the General Assembly at its last session, that "the Constitutions—State and Federal—be made a branch of study in our public schools." This little volume has been prepared as a text-book for this instruction, so far as the civil government of Alabama is concerned, and its aim is to give briefly and clearly the leading facts in the civic history of the State as well as the present workings of the governmental machinery. Like all school books, its usefulness must depend in a large measure upon the way in which it is supplemented by the work of the living teacher. To the teachers of Alabama, therefore, I commit it with the hope that they may make it effective in fostering in the youth of the State a just conception of the duties and responsibilities of citizenship.

While an enumeration of all the authorities consulted would be entirely out of proportion to the little book itself, I wish to make here an acknowledgment of my indebtedness, chiefly in the first two chapters, to the works of Albert J. Pickett, Alexander B. Meek, Willis Brewer, and Hannis Taylor, and to such of the recent writings of Grace King and of John Fiske as touch upon the early history of the territory now embraced in the State of Alabama. I am also indebted to Professor W. S. Wyman's paper on "The First European Settlement in Alabama," printed in the *Proceedings of the Alabama Educational Association* for 1893, and to a sketch of the "Origin and Early Growth of Mobile," published in the Diamond edition of the *Mobile Daily Register*, January 31, 1895.

My thanks are due and are hereby cordially tendered to President Richard C. Jones and Professor Benjamin F. Meek, of the University of Alabama, for helpful criticisms and for patient aid in reading the proofs.

T. C. McC.

UNIVERSITY OF ALABAMA,
August, 1895.



CHAPTER	PAGE
I. FRENCH, ENGLISH, AND SPANISH GOVERNMENT IN WHAT IS NOW ALABAMA	5
II. TERRITORIAL GOVERNMENT IN ALABAMA	16
III. THE STATE GOVERNMENT OF ALABAMA IN THE PAST	25
IV. THE PRESENT STATE GOVERNMENT OF ALABAMA	35
V. LOCAL GOVERNMENT IN ALABAMA	55
VI. HOW OFFICERS ARE CHOSEN BY THE ELECTORS	69
<hr/>	
THE CONSTITUTION OF THE STATE	79
APPENDIX	122
INDEX	127

ILLUSTRATIONS.



THE FLAG OF ALABAMA	<i>Frontispiece.</i>
JEAN BAPTISTE LE MOYNE DE BIENVILLE	5
GOVERNOR WILLIAM C. C. CLAIBORNE	16
MAP SHOWING FORMATION OF ALABAMA	20
GOVERNOR GEORGE S. HOUSTON	25
THE GREAT SEAL OF ALABAMA	35
CAPITOL BUILDING AT MONTGOMERY	39





JEAN BAPTISTE LE MOYNE DE BIENVILLE.

ALABAMA.



CHAPTER I.

FRENCH, ENGLISH, AND SPANISH GOVERNMENT IN WHAT IS NOW ALABAMA.

SPANISH EXPLORATION.

1. The territory now embraced in the State of Alabama was first explored in 1540 by the Spanish adventurer, Hernando De Soto, upon whom the title of *Adelantado*, which combined military and civil command, had been conferred by the emperor Charles V. Earlier Spanish voyagers had ascended Mobile Bay, and it is possible that scouting parties of the expedition of Pamphilo de Narvaez, in 1528,

may have touched what is now the south-eastern border of the State, along the line which separates it from Florida; but of this we can have no certain knowledge.

2. On May 12, 1539, De Soto, holding his commission as governor and captain-general for life of Florida, as well as of the island of Cuba, set sail from Havana on the ill-starred expedition which he had planned for the "conquest of Florida." It must be understood that what the Spaniards then called Florida included not only the peninsula and State which we now know by that name, but all the Spanish claims in America extending indefinitely northward and sweeping from the confines of Mexico to Nova Scotia. On the 25th of May De Soto arrived at the mouth of Tampa Bay, which he named the bay of *Espiritu Santo*. He soon afterward landed and took possession of the country in the name of the Spanish monarch. His force consisted of about six hundred men, including soldiers, priests, artisans, and "men of science," thoroughly equipped in every way for the perilous adventure of exploring and conquering an unknown land.

3. De Soto had been a lieutenant of Pizarro in the conquest of Peru, and his expedition to Florida had been planned with the expectation of finding in this unexplored region something of the wealth in gold and silver that had rewarded the Spanish conquerors in Mexico and South America. It was primarily a quest for gold, although the glory of conquest and the conversion of the heathen were also motives that appealed alike to the *Adelantado* and his followers.

4. De Soto commenced his march from Tampa northward up the peninsula. The Indian tribes along the route offered, at different times, a desperate resistance; but the Spanish cavaliers, protected by armor and mounted upon horses—animals which the natives had never before seen—were almost proof against the arrows and other missiles of their assailants, and they steadily bore down all oppo-

sition. De Soto spent five months in winter quarters in the neighborhood of the present city of Tallahassee, Florida. Resuming his march in the early spring of 1540, he traversed what is now the State of Georgia; and from the hilly country of the Cherokees, whither he was drawn in his search for gold, he passed into the valley of the Coosa river in what is now Alabama.

5. From the Coosa region, De Soto proceeded down the valley of the Alabama river toward its junction with the Tombigbee. Somewhere above this junction on the north-western bank of the Alabama,¹ he fought the great battle of Mauvila with the mighty Indian chief Tuscaloosa, the first battle upon Alabama soil of which we have any record. The battle was won by the Spanish invaders, but it was well-nigh as disastrous to the victors as to the vanquished; for, in addition to the heavy loss of men and horses, many of the equipments necessary to a successful prosecution of the enterprise were destroyed in the burning of Mauvila.

6. From Mauvila De Soto turned his course to the north-west and crossed the Warrior river somewhere between the present cities of Tuscaloosa and Demopolis—possibly near the village of Carthage, the site of noted Indian mounds, which some authorities identify with the “Cabusto” of the Spanish narratives. From that point De Soto marched into the country of the Chickasaw Indians, in what is now northern Mississippi. With the remainder of this unfortunate expedition, which did nothing more than to lift for a while the curtain of history upon the South-west, it is not the purpose of this sketch to deal. It is sufficient to note here that De Soto had exercised the military, if not the civil, functions of *Adelantado* for a few brief months upon what is now the soil of Alabama before he passed on to the exploration of the then unknown lands to the

¹ Pickett says at Choctaw Bluff.

west. Long before England had determined to follow up the voyages of the Cabots with colonizing projects, before the Pilgrims had left their English homes for Holland, even long before Raleigh had sent out his ill-fated expeditions to what is now the coast of Carolina, Spanish cavaliers had trooped across Alabama's hills and plains in their vain search for gold, awing the natives with the power of European civilization and government.

FRENCH EXPLORATION AND SETTLEMENT.

7. After the expedition of De Soto, the territory now embraced in Alabama dropped back into the darkness of aboriginal life until another European power appeared not only as an explorer, but as a colonizer in the South-west. In 1682, Robert Cavalier de la Salle, the French explorer, worked his way, slowly and painfully, from the Lake region down the Mississippi, and at the mouth of that great river took possession of the valleys drained by it and its tributaries in the name of the *Grand Monarque*, Louis XIV., "King of France and of Navarre." Standing by the column which he had erected at the mouth of the river, La Salle proclaimed the sovereignty of the French king over "this country of Louisiana, the seas, harbors, ports, bays, adjacent straits, and all the nations, peoples, provinces, towns, cities, villages, mines, minerals, fisheries, streams, and rivers within the extent of the said territory of Louisiana . . . from the great river's source as far as its mouth at the sea or the Gulf of Mexico."

8. The French territory of Louisiana was thus as vaguely bounded as the Florida of the Spaniards; but the French were not long in asserting practically their claims to that region now embraced in Alabama. Of course the French claim overlapped the Spanish in this territory, and before many years another European power, England, was to assert her claim to the same region. It is not necessary

to speak here of the misfortunes that attended La Salle's attempt at colonization, nor of his tragic death, in 1687. in the wilds of Texas. The Treaty of Ryswick, 1697, left the French king free to carry out the plans of La Salle for the occupation and colonization of Louisiana. The man selected to command the enterprise was Pierre LeMoyne d'Iberville, a Canadian soldier, who, on account of his native ability as well as his varied experience in New-World warfare, was well fitted for the responsibilities of the position.

9. Iberville set sail with his expedition from the harbor of Brest in October, 1698. Having touched at St. Domingo for supplies of food and fresh water, he sailed from there through the Yucatan channel, thence northward across the Gulf of Mexico, and he would have made a lodgement somewhere on Pensacola Bay, had he not found it already in the possession of the Spaniards. From Pensacola he sailed westward until he touched Dauphin Island, which he named Massacre Island, at the mouth of Mobile Bay. He then proceeded to Ship Island at the mouth of Pascagoula river, and finally settled his colony, in 1699, on the north-east shore of the Bay of Biloxi. There he built a fort, "as a symbol of French jurisdiction that was to be asserted from the Bay of Pensacola on the east to the Rio del Norte on the west." Iberville returned to France, leaving his brother, Jean Baptiste LeMoyne de Bienville, in command of the colony. During a subsequent absence of Iberville in 1702, Bienville was ordered to move the settlement to the Mobile river. Thus it came about that while Iberville was the founder of Louisiana, his brother Bienville, who was personally in charge of the removal from Biloxi, in what is now Mississippi, to the Mobile river, in what is now Alabama, may be said to be, in some sense, the founder of Alabama.

10. The site selected for the new fort and settlement was on the west bank of the Mobile river, twenty-five or

thirty miles above the present city of Mobile.¹ It was named Fort St. Louis de la Mobile, and was the first white settlement in what is now Alabama. The story of its struggle for existence under its brave and capable young governor, Bienville, cannot be told here. It is enough to state, that owing to high water in the river and other threatened disasters, it was decided to move the fort colony to a more desirable location nearer the mouth of the river; and thus it happened that the permanent settlement of the French was made in 1711, where the city of Mobile now stands. The fort there built was named by the French Fort Condé; but it was afterwards known during the English and Spanish occupancy as Fort Charlotte. Its site was about where the principal market, the court-house, and the theatre stand in the Mobile of to-day.

11. In the same year that the French settlement was transferred from Biloxi to the Mobile River, the French and Spanish authorities agreed upon the Perdido River as the boundary between Florida and Louisiana. From this eastern limit of Louisiana, thus fixed upon the Gulf coast, it was the policy of France to draw her line of forts northward to the St. Lawrence; and, in furtherance of this policy, Bienville, in 1714, built Fort Toulouse, long afterwards known as Fort Jackson, between the Coosa and Tallapoosa rivers, about four miles above the junction of these rivers. It was already apparent that this outpost was necessary to protect the Indian allies of the French, as well as the territory claimed by the French, from the encroachments of the English from the Carolinas. Another fort in the interior of what is now Alabama that owed its origin to Bienville was Fort Tombeckbee, afterwards Fort Confederation, which he built upon the Tombigbee river in 1736, on the occasion of his disastrous

¹ Possibly Chastang's Bluff.

campaign against the Chickasaw Indians. It is located in what is now Sumter county, near Epes' station.

12. The Indians with whom the French came in contact at their different settlements in what is now Mississippi and Alabama belonged chiefly, if we except the Natchez tribes, to the great Maskoki stock¹—the Creeks, the Choctaws, and the Chickasaws. Far to the north-east were the Cherokees, a branch of the great Iroquois stock, occupying a small part of what afterwards became the State of Alabama; but they did not come in direct contact with the French outposts.

13. The capital of the French province of Louisiana was moved from Mobile to Biloxi in 1720, and from there to New Orleans in 1722. The history of the province under its successive royal and proprietary governors, and their wars with the native tribes and with rival European powers, cannot be noticed here. We must pause, however, at the final struggle that was to determine whether the French or the English were to hold and occupy the great domain east of the Mississippi to the Alleghanies—whether to the Anglo-Saxon or to the Romano-Gallic race had been given the future of North America.

ENGLISH OCCUPANCY.

The struggle of three-quarters of a century² between the French and English colonists in America was to be fought to a finish in the Seven Years' War, 1755–1763, known in Colonial history as the French-Indian War. "It was no mere question of succession to distant thrones that was this time to wet the soil of America with the blood of her colonists." The struggle was for land. The first prize to be contended for was the rich valley of the Ohio

¹ Sometimes called the "Mobilian family."

² "King William's War"—1689–1697; "Queen Anne's War"—1702–1713; "King George's War"—1744–1748; "French-Indian War"—1754–1763.

river, and naturally the war broke out at the gateway to that valley, commanded by Fort Duquesne, held by the French, at the junction of the Alleghany and Monongahela rivers.

14. The war began with disaster to the English and Colonial forces in the memorable defeat of Braddock; but it closed triumphantly for them in the capture of Quebec and the conquest of Canada. The planting of the cross of England upon the heights of Quebec was the signal for it to supplant the lilies of France upon the walls of Forts Condé, Toulouse, and Tombeckbee in what is now Alabama. By the Treaty of Paris, in 1763, France formally ceded to England all her territory east of the Mississippi river, except New Orleans and the adjacent district known as the Island of Orleans. At the same time Spain ceded to Great Britain all her claims to Florida, receiving in exchange the city of Havana, Cuba, which had been seized by the English during the war. According to the terms of the Treaty of Paris, the French commandant at Mobile delivered Fort Condé to Major Robert Farmer, of the English army, and Fort Tombeckbee was surrendered to Captain Thomas Ford; while the Chevalier Lavnoue, commanding Fort Toulouse, not being relieved by an English officer, spiked his guns, broke off their trunnions, and threw all his military stores into the Coosa river.

15. It was by this series of events that the territory now embraced in Alabama, explored by the Spanish and settled by the French, passed under the government of the English crown. By a secret treaty, France at the same time ceded to Spain all her remaining territory in North America. Thus passed away France's dream of empire in the New World. The rich heritage left her by La Salle, Iberville, Bienville, and other explorers and colonizers had by the fortunes of war fallen from her grasp.

16. After Florida and the French claims east of the Mississippi had passed into the hands of the English, the

provinces of East and West Florida were created—the latter embracing a large part of what is now the States of Mississippi and Alabama. The northern boundary of West Florida, as thus organized, was the line of $32^{\circ} 28'$, north latitude, extending from the mouth of the Yazoo River on the Mississippi east to the Chattahoochee. That line ran between the sites of Montgomery and Wetumpka, which are within fifteen miles of each other. All of the present state of Alabama south of that line—the section which corresponds very nearly to what we now loosely call “South Alabama”—was in the British province of West Florida, and all north of that line was in the British province of Illinois.

17. There were then no European inhabitants, except a few traders among the Indians, in the Illinois portion. The capital of British West Florida was Pensacola, and its first British governor was Captain George Johnstone, of the royal navy. He organized the civil government of the province under military commandants and magistrates. There were several unsuccessful attempts to form a colonial legislature in West Florida after the fashion of the English colonies on the Atlantic coast; but it continued to be governed as a military province until it passed to Spanish control during the war of the Revolution.

THE SPANISH CONQUEST.

18. It must be borne in mind that the struggle for independence of the thirteen English colonies along the Atlantic seaboard found little sympathy among the inhabitants of British West Florida. The Florida provincials, were, in the main, loyal to the English crown; and this is one of the reasons why, during and just after the Revolutionary War, not a few loyalists, or Tories, as they were called, from Georgia and the Carolinas, found refuge in what is now Alabama.

19. While the struggle for independence was in progress, Spain offered her services as a mediator between England and her revolted colonies. The proposition was rejected. Spain then decided to become a party to the struggle herself; and in 1779 she declared war against England. At this time the Spanish governor of Louisiana was Don Bernardo Galvez, an able and ambitious soldier, who saw in the neighboring British province of West Florida an opportunity for gratifying his love of military glory. After some preliminary successes along the eastern bank of the Mississippi, he marched against Fort Charlotte, at Mobile, with a force of two thousand men, and on the fourteenth of March, 1780, forced it to surrender. Galvez then determined upon the capture of Pensacola. Realizing, however, the strength of the English position at that place, he went to Cuba for aid. With the reinforcements which he received, he effected the capture of Pensacola on the 9th of May, 1781. By the terms of the capitulation the whole province of West Florida was surrendered to Spain. Among the many honors which rewarded Galvez for his brilliant exploits were the title of count and promotion to the captain-generalcy of Florida and Louisiana.

20. After the Treaty of Paris in 1783 had recognized the independence of the United States, the conquests of Galvez in Florida were confirmed. However, a controversy arose as to the northern boundary of West Florida. Spain claimed that it was the line of $32^{\circ} 28'$, the limits of the British province, while the United States, in behalf of the State of Georgia, claimed, according to the treaty with Great Britain, that it was the line of 31° , north latitude. After ten years of controversy, the matter was finally settled in 1795, when Minister Pinckney succeeded in negotiating the Treaty of Madrid, wherein it was agreed that "the future boundary between the United States and the Floridas shall be the 31st parallel of north latitude from the Mississippi eastward to the Chattahoochee river." It

was thus that Georgia's claim, under her colonial charter, was made good to all the lands on her western frontier to the Mississippi river. As the "Mobile district"—the territory between the Pearl and Perdido rivers—lay south of the 31st parallel, it still continued under Spanish rule. How it was subsequently wrested from Spain and became incorporated with the Mississippi Territory—out of which Alabama was carved—will be told in the succeeding chapter.



GOVERNOR WILLIAM C. C. CLAIBORNE.

CHAPTER II.

TERRITORIAL GOVERNMENT IN ALABAMA.

THE MISSISSIPPI TERRITORY.

21. After the settlement of the boundary between the United States and the Spanish province of Florida, there was a great influx of American settlers into the hitherto disputed territory—the district between the lines of 31° and $32^{\circ} 28'$, stretching from the Mississippi to the Chattahoochee. It was important that some kind of civil government should be organized for the people. Congress, therefore, with the consent of the State of Georgia, which still claimed the title to the land, passed an act, approved April 7, 1798, authorizing the President to form a territorial

government in the ceded district, known as the Mississippi Territory, similar to that which had been provided for the North-west Territory by the famous ordinance of 1787—a noteworthy difference being that slavery was not prohibited in the Mississippi Territory.

22. President Adams appointed Winthrop Sargent, of Massachusetts, first governor of the Territory, with John Steele of Virginia, as secretary. Thomas Rodney of Delaware, and John Tilton of New Hampshire, were appointed judges of the supreme court. These officers reached Natchez, the territorial capital, a few months after the Spaniards had withdrawn from the ceded district, and they found the country occupied by General James Wilkinson, in command of Federal troops. The governor proceeded at once to put the territorial government in force. His powers were extensive. He could appoint all territorial officers, except the secretary, the supreme court judges, and the militia generals. He could divide the Territory into counties; and, acting with the judges, he could ordain such laws as were necessary for the government of the Territory—unless they were disapproved by Congress.

23. By a proclamation, dated April 2, 1799, Governor Sargent divided the "Natchez district" into the counties of Adams and Pickering; and he established county courts to be held quarterly by the territorial judges. On June 4, 1800, he issued another proclamation establishing the county of Washington, which embraced the settlements along the Alabama and Tombigbee rivers—which embraced, in fact, all that part of the *original* Mississippi Territory now lying in the State of Alabama. Out of the county of Washington there have since been carved, in whole or in part, twenty-nine counties in what is now Alabama and sixteen in what is now Mississippi.¹

¹ By act approved March 27, 1804, Congress made a judicial district

24. Dissatisfaction with the arbitrary powers of Governor Sargent and a considerable increase in population were the causes which induced Congress to complete the territorial government of Mississippi by a supplemental act, approved May 10, 1800, which provided for a territorial legislature. Representation was apportioned among the three counties on a basis of one representative for every five hundred free white males, with the result that Adams and Pickering had four representatives each, while the county of Washington had only one. These representatives and a legislative council, or upper house, of five members, appointed by the president, met in General Assembly at Natchez, in December, 1800—the first representative body of white men that ever met for the purpose of making laws for what is now a large part of Alabama. It was thus that Mississippi passed from a “first grade” to a “second grade” territory.

25. The first governor under the new system was William Charles Cole Claiborne, a native of Virginia and a citizen of Tennessee, who was appointed by President Jefferson. By authority of the legislature, the new governor moved the capital from Natchez to the village of Washington, six miles east of the former place. It was at the last-mentioned capital, during the legislative session 1801–2, that the first regular code of laws, with forms of judicial proceedings, was adopted for the use of the Territory.

26. As a settlement of controversies that had grown out of conflicting land claims, the State of Georgia in 1802 ceded all the territory on her western frontier to the United States. This whole Georgia cession, stretching from the western boundary of that State to the Mississippi river, and embracing all the country lying between the lines of

of the county of Washington, and President Jefferson appointed Harry Toulmin to the judgeship thus created. That appointment is said to mark the beginning of the judicial history of Alabama.—HANNIS TAYLOR.

31° and 35° north latitude, was bound up in the Mississippi Territory by an act of Congress approved March 27, 1804. Within the northern boundary of the Territory as thus enlarged was included a strip of land about twelve miles wide that had been ceded to the United States by South Carolina in 1787.

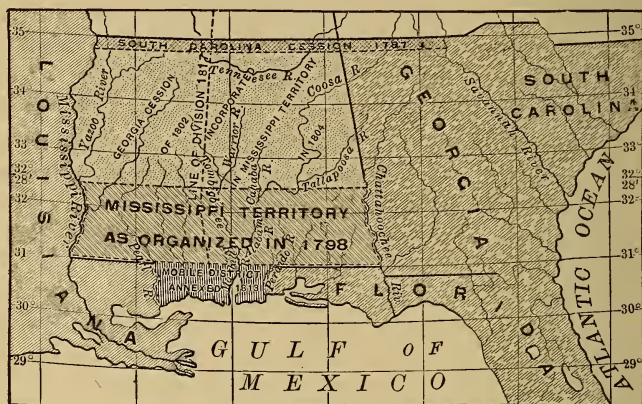
27. In December, 1803, William C. C. Claiborne, still acting as territorial governor of Mississippi, accepted—with General Wilkinson as a fellow commissioner—the formal surrender of Louisiana. That province having been retroceded by Spain to France by a secret treaty in 1800, had been purchased by the United States from Napoleon. Spain continued in possession of that portion of what is now Alabama and Mississippi lying south of the line 31°—the “Mobile district”—although the United States claimed that it had acquired by purchase the whole of Louisiana which belonged to France prior to 1763—that is, as far east as the Perdido river.

28. In the War of 1812, Spain became the virtual ally of England, and the opportunity was thus presented to dislodge the Spanish forces at the mouth of Mobile river. Accordingly General Wilkinson moved from New Orleans with six hundred men, and, on the 13th of April, 1813, he forced the Spanish garrison of Fort Charlotte to surrender. By an act of Congress approved May 12, 1813, the “Mobile district,” thus wrested from Spain by military force, was annexed to the Mississippi Territory. These events removed the last vestige of foreign domination from what is now the soil of Alabama.¹

29. In the Mississippi Territory as thus completed there were embraced “three distinct groups of white settlements, separated from each other by wide stretches of country in the possession of the Creek, the Choctaw, the Cherokee and

¹ On February 12, 1815, British forces captured Fort Bowyer (now Fort Morgan) on Mobile Point, and held it for a short time after the news of the Peace of Ghent had come across the Atlantic.

the Chickasaw Indians." These settlements were the Natchez district, on the eastern bank of the Mississippi; the Tombigbee settlements, including the "Mobile district"; and the settlements north of the Tennessee river. The



MAP SHOWING SUCCESSIVE ADDITIONS TO THE MISSISSIPPI TERRITORY AND ITS DIVISION INTO THE STATE OF MISSISSIPPI AND THE ALABAMA TERRITORY IN 1817.

aggregate population of these three groups was about thirty-five thousand.

30. The general policy of the Federal government in dealing with the Indians of the Mississippi Territory was to extinguish by purchase their titles to the land as "soon as it could be done peaceably and on reasonable terms." Agents and officials of the government succeeded, with more or less difficulty, in negotiating successive treaty purchases with the Chickasaws, the Choctaws, and the Cherokees;¹ but the Creek Indians, claiming the larger part of what is now Alabama, had to be dealt with in another way.

¹ The last reservation of the Chickasaws in Alabama was ceded in 1832. By the Treaty of Dancing Rabbit Creek, concluded September 27, 1830, the Choctaws made the final cession of all their lands in Alabama and Mississippi. The final treaty with the Cherokees was made at New Echota, December 29, 1835.—BREWER.

They constituted the most powerful tribes with which the white settlers had to contend. After the close of the Revolutionary War the Creeks had shown some hostility to the American settlers, but under the prudent diplomacy of the government at Washington their lands might ultimately have been peaceably purchased, had it not been for English and Spanish influence.

31. At the outbreak of the War of 1812, it was the policy of Great Britain to array the Indian tribes against the Americans. In pursuance of this policy, Tecumseh, the Shawnee chief, came southward from the lakes, preaching his war of extermination against the white settlers. He found eager listeners in Josiah Francis, the prophet; William Weatherford, the "Red Eagle;" Peter McQueen, the half-breed of Tallase; and other leaders among the Creeks.

32. The flames of the Creek War broke out at the battle of Burnt Corn in what is now Conecuh county; and this was followed by the horrible massacre at Fort Mims, in Baldwin county, August 30, 1813. Scattered as were the white settlers, they were unable, in many instances, to protect themselves; but a strong deliverer was at hand. Down from Tennessee came Andrew Jackson, with his volunteers, who, with terrible energy, broke to pieces the Creek confederacy in the hard-fought battles of Talladega, Emuckfau,¹ and Tohopeka. An important result of the last decisive victory was the conclusion of the Treaty of Fort Jackson, signed August 9, 1814, by which the Creeks ceded to the United States all their claims to territory lying "west of the Coosa river and south of a line drawn from Wetumpka to a point on the Chattahoochee river below the present city of Eufaula."²

¹ The Creek warriors claimed a victory at the battle of Emuckfau creek, and boasted that they had made "*Captain Jackson*" run.—PICKETT.

² The final treaty with the Creeks by which they ceded to the United States all their lands east of the Mississippi, was negotiated at Cusseta

33. It was in the early days of the Creek War that "the smallest naval battle on record" occurred in Alabama waters. On the 12th of November, 1813, Samuel Dale, James Smith, and Jeremiah Austill, manning a canoe, met a party of nine Indian warriors in another boat on the Alabama river near the mouth of Randon's creek in what is now Monroe county. A hand-to-hand fight with war-clubs and rifle-barrels ensued, with the result that the nine Indians were killed and the three white men escaped with a few painful though not serious wounds.

THE ALABAMA TERRITORY.

34. By an act of Congress approved March 1, 1817, the Mississippi Territory was divided into two parts by "a line to be drawn from the mouth of Big Bear creek on the Tennessee river to the north-west corner of Washington county on the Tombigbee river, thence due south with the western limit of said county to the sea." That part lying west of the line indicated became, December 10, 1817, the State of Mississippi. That part lying east of the line was organized by act of Congress, approved March 3, 1817, into the Alabama Territory—the name being taken from the principal river within its borders.¹ St. Stephens, on the Tombigbee river, was made the provisional capital; and President Monroe appointed William Wyatt Bibb, of Georgia, governor of the Territory.

35. The act creating the Alabama Territory authorized the governor to convene a territorial legislature, to be com-

and formally signed at Washington, March 24, 1832. It was not, however, until 1836 that they were moved across the Mississippi.—
BREWER.

¹ The interpretation "Here we rest," said to have been given the name *Alabama* by the late Judge A. B. Meek, poet, orator, and historian, which has found a place as the motto of the Great Seal of State, is now generally regarded as purely poetical. No other satisfactory interpretation has yet been substituted for it.

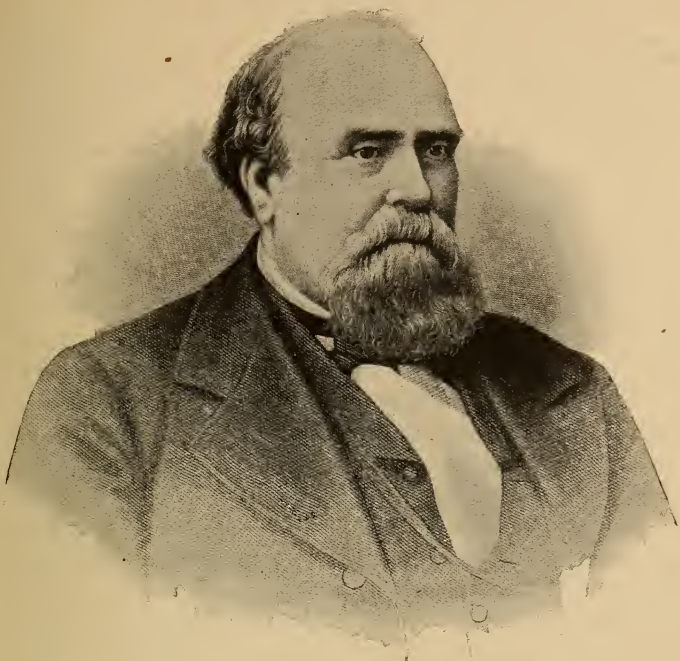
posed of such members of the legislative council, or upper house, and of the house of representatives, of the Mississippi Territory as fell within the limits of the new Territory. The first territorial legislature, thus provided for, met at St. Stephens on January 19, 1818, and the following counties which had been organized under the Mississippi Territory were represented: Washington, Madison, Baldwin, Clarke, Mobile, Monroe, and Montgomery. It happened that only one member of the old legislative council, or upper house, of the Mississippi Territory resided in the new Alabama Territory—Mr. James Titus, of Madison; but, by no means disconcerted, he sat alone as an upper house or senate, and, with all the gravity which the situation demanded, passed or rejected measures which came to him from the lower house in due parliamentary form. On the 20th of January, Governor Bibb presented his message in which he recommended the advancement of education, the building of roads and bridges, the formation of new counties, and other legislation for the development of the Territory.

36. In the same year that the first territorial legislature met at St. Stephens, 1818, a French colony, composed of exiled followers of Napoleon, who were seeking in the wilds of Alabama a refuge from Bourbon hate, founded the city of Demopolis, at the junction of the Warrior and Tombigbee rivers. Among the colonists were General Charles Lefebvre-Desnouettes, Captain Victor Grouchy, son of the famous Marshal Grouchy, and other noted French officers. The story of the colony, with its misfortunes, forms one of the most romantic episodes in South-western history. The names of the county of Marengo and of its two villages, Linden and Arcola, bear testimony to the political sympathies of its earliest settlers.

37. The second session of the territorial legislature met at St. Stephens in November, 1818. At that session the seat of government was established on the Alabama river

at the mouth of the Cahaba river, and Governor Bibb was made sole commissioner to lay off the town of Cahaba. Huntsville, however, was selected as the temporary capital, until suitable buildings could be erected at Cahaba.

38. The Alabama Territory, at the time it was cut off from Mississippi, did not have over thirty-three thousand inhabitants, exclusive of Indians; but before the close of 1818, the population had increased to more than seventy thousand. This increase had been chiefly from immigration from the States of Georgia, Tennessee, Virginia, and the Carolinas. The immigrants had brought with them the love of "settled government" bred in the older communities, and they vied with the earlier inhabitants in the desire to see their new home take on the dignity of Statehood. The time had come for Alabama to apply to Congress for admission into the Union.



GOVERNOR GEORGE S. HOUSTON.

CHAPTER III.

THE STATE GOVERNMENT OF ALABAMA IN THE PAST.

39. An Act of Congress entitled "An act to enable the people of Alabama 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," was approved by President Monroe, March 2, 1819.¹ Under the provisions of this "enabling act" an election was held throughout the several counties of the

¹ For present boundaries of the State, see *Const. Art. II. Sect. 1.*

Territory on the first Monday and Tuesday of May, 1819, to elect delegates to a convention to form a constitution for the future State. The convention met at Huntsville on Monday July 5, 1819. John W. Walker, of Madison county, was chosen president, with John Campbell as secretary. The convention, having framed a constitution, adjourned on the 2d of August.

40. It is worthy of remark here that the French settlement and the Spanish occupancy of a portion of the territory embraced in Alabama, left no traces in the organic law of the State. The government provided for by the constitution framed at Huntsville was "as purely English in its outlines and spirit as that of Virginia or of Massachusetts." And with good reason; for a majority of the men who framed it had come from the lower group of the thirteen original States—the citizenship of which group was as thoroughly English in its political habit as that of any other part of the country. Of the forty-four delegates¹ who sat in the convention at Huntsville, ten are known to have come from Virginia, six from North Carolina, two from South Carolina, one from Georgia, one from

¹ The following is a roll of the delegates under the counties from which they were sent : *Madison*—Clement C. Clay, John Leigh Townes, Henry Chambers, Samuel Mead, Henry Minor, Gabriel Moore, John W. Walker, and John M. Taylor; *Monroe*—John Murphy, John Watkins, James Pickens, and Thomas Wiggins; *Blount*—Isaac Brown, John Brown, and Gabriel Hanby; *Limestone*—Thomas Bibb, Beverly Hughes, and Nicholas Davis; *Shelby*—George Phillips and Thomas A. Rogers; *Montgomery*—John D. Bibb and James W. Armstrong; *Washington*—Israel Pickens and Henry Hitchcock; *Tuscaloosa*—Marmaduke Williams and John L. Tindal; *Franklin*—Richard Ellis and William Metcalf; *Cotaco*—Melkijah Vaughn and Thomas D. Crabb; *Clarke*—Reuben Saffold and James McGoffin; *Cahaba*—Littlepage Sims; *Conecuh*—Samuel Cook; *Dallas*—William R. King; *Marengo*—Washington Thompson; *Marion*—John D. Terrell; *Lauderdale*—Hugh McVay; *St. Clair*—David Connor; *Autauga*—James Jackson; *Baldwin*—Harry Toulmin; *Mobile*—S. H. Garrow; *Lawrence*—Arthur F. Hopkins and Daniel Wright.—PICKETT.

Vermont, and one from England. There can be no question that a large majority of the remaining twenty-three delegates had also come, in about the same proportion, from the four first-mentioned States. "The men who dominated the convention," concludes Mr. Hannis Taylor, "were no doubt from Virginia and North Carolina."

41. The Huntsville constitution, after a full "declaration of rights," made the usual division of the powers of government into "three distinct departments," legislative, executive, and judicial. The legislative power was vested in "two distinct branches: the one to be called the Senate, the other the House of Representatives, and both together 'The General Assembly of the State of Alabama.'" The governor was to be elected by the people and to hold office for two years. The judicial power was vested in one supreme court, in circuit courts, and in such inferior courts of law and equity, as the General Assembly might from time to time establish.

42. The General Assembly was prohibited from passing laws for the emancipation of slaves without the consent of the owners, or for preventing immigrants from bringing slaves with them; but power was given "to prevent slaves from being brought into the State as merchandise." It was enjoined upon the General Assembly to pass laws "to suppress the evil practice of duelling." It was declared that "schools shall be forever encouraged in this State;" and that "the General Assembly shall take measures for the improvement of such lands as may have been or may be hereafter granted by the United States for the support of a seminary of learning, and the moneys which may be raised from such lands by rent, lease, or sale . . . shall be and remain a fund for the exclusive support of a State university, for the promotion of the arts, literature, and the sciences."

43. With a view to Alabama's assumption of the full functions of statehood, an election was held on the third

Monday and Tuesday in September, 1819, to choose members of the General Assembly, a governor, and other State officers. William Wyatt Bibb, who had been the Territorial governor of Alabama, was elected the first governor of the embryo State, and he was inaugurated at Huntsville, November 9, 1819. A joint resolution of Congress, admitting Alabama as a State of the Union under the constitution framed at Huntsville, was approved by President Monroe, December 14, 1819.

44. The General Assembly met at Cahaba in 1820, and that place continued to be the seat of government until 1826, when the capital was moved to Tuscaloosa. In 1846 the capital was moved to Montgomery, which still remains the seat of government. The Capitol first built there was destroyed by fire in December, 1849—a disaster involving the loss of valuable public documents. The present Capitol—made doubly historic by the inauguration of the Confederate government there in 1861—dates its completion from 1851.

45. The excellence of the work of the framers of the constitution of 1819 is attested by the fact that, with a few unimportant amendments, it met all the conditions of a rapidly growing State until the lowering clouds of the great Civil War brought momentous changes. By a resolution passed February 24, 1860, the legislature instructed the governor to call a State convention in the event of the election of the republican candidate for the presidency. Under that resolution, Governor Andrew B. Moore, on the election of Mr. Lincoln, called a convention, which met in Montgomery, January 7, 1861. William M. Brooks, of Perry county, was elected president of the convention. Four days after its meeting—on the 11th day of January, 1861—it passed the following Ordinance of Secession:

"Be it declared and ordained by the people of the State of Alabama, in Convention assembled, That the State of Alabama now withdraws, and is hereby withdrawn, from the union

known as the 'United States of America,' and henceforth ceases to be one of said United States, and is, and of right ought to be, a sovereign and independent State.

"SEC. 2. *Be it further declared and ordained by the people of the State of Alabama, in Convention assembled,* That all the powers over the territory of said State, and of the people thereof, heretofore delegated to the government of the United States of America be, and they are hereby, withdrawn from said government, and are hereby resumed and vested in the people of Alabama."¹

The ordinance was passed by a vote of sixty-one to thirty-nine. Twenty-four of the thirty-nine delegates who voted in the negative did not sign the ordinance; but among those who did sign it were some who had been leading opponents of the measure before its passage.

46. On the 4th of February, 1861, representatives from the seceded States met in Montgomery and proceeded to form the provisional government of the Confederate States of America. Jefferson Davis, of Mississippi, was elected president of the new republic, and he was inaugurated at the capitol in Montgomery, February 18, 1861. Alabama, of course, was represented in the formation of the new government, and it continued under that government until the final surrender of the Confederate armies in the spring of 1865.

47. At the close of the war President Johnson—who believed that the seceded States should be recognized as States of the Union as soon as they had repealed the ordinances of secession, had repudiated the Confederate war debt, and had adopted the thirteenth amendment, prohibiting slavery—appointed Lewis E. Parsons, of Talladega county, provisional governor of Alabama. A convention

¹ The full text of the Ordinance of Secession, including the preamble and the succeeding resolutions, was engrossed on parchment and signed by the members of the convention. It is preserved in the State library at Montgomery.

was called to meet in Montgomery, September 12, 1865. Benjamin Fitzpatrick was elected president of this convention, with William H. Ogbourne as secretary.

48. The convention revised the constitution of the State in accord with the "Johnson plan of reconstruction." Robert M. Patton was elected governor under the revised constitution, and the legislature chosen under it met in December, 1865. The government thus organized continued in force until it was superseded by the act of Congress "to provide for the more efficient government of the insurrectionary States," which was passed over the veto of President Johnson, March 2, 1867.

49. The reconstruction measures of Congress divided the seceding States into military districts, each under the command of an officer "not below the rank of brigadier-general." General Pope was appointed to the command of the military district of which Alabama formed a part, and Brigadier-General Wager Swayne was assigned to the immediate command of Alabama, with headquarters at Montgomery. Each State was to remain under this military government until a State convention, composed of delegates "elected by the male citizens of the State twenty-one years old and upward, of whatever race, color, or previous condition," should form a State government and ratify the fourteenth amendment to the Constitution of the United States.

50. A convention called under the "congressional plan of reconstruction" met in Montgomery, November 5, 1867, and framed a new constitution establishing universal manhood suffrage. When it was submitted to the people for ratification in February, 1868, it failed to secure the support of a majority of the registered voters. Congress, however, afterwards decided that it had been ratified by receiving a majority of the votes which had been cast in the election, and consequently the State was readmitted into the Union under that constitution, July 11, 1868.

51. At the general election in November, 1874, the forces which had dominated in Alabama under the "congressional plan of reconstruction" were finally overthrown. Under the leadership of the late George Smith Houston, who was at that time elected governor, a constitutional convention was called, and a new constitution was framed—the one under which the government of Alabama is now organized. It was ratified by popular vote, November 16, 1875, and went into effect by proclamation of the governor December 6, 1875. Except in so far as it fully accepted the results of the Civil War, the present constitution perpetuates the spirit and the main features of the constitution framed at Huntsville in 1819.

52. Before outlining the organization of the present State and local governments in Alabama, which will be attempted in the succeeding chapters, it may be well to note a few facts in the progress and development of the State in the past. In 1820—the year after the State was admitted into the Union—Alabama had a total population, exclusive of Indians, of only 127,901 souls. Of this number, 85,451 were whites and 42,450 negroes. By the last census, 1890, the State had a total population of 1,513,017, of which 681,431 were colored. When the State was admitted into the Union, the principal towns were Mobile, Huntsville, Claiborne, Cahaba, St. Stephens, Montgomery, and Florence, none of which had a population of over two thousand. By the census of 1890, the population of the six leading cities of the State was given as follows: Mobile, 31,076, Birmingham, 26,178, Montgomery, 21,883, Anniston, 9876, Huntsville, 7995, and Selma, 7626. In face of the rapid growth of mining and manufacturing industries in Alabama in the past decade, the large preponderance of rural over urban population shows that the main interests of the people of the State still centre in agriculture.

53. Although there was some division among the peo-

ple of Alabama upon the question of secession, as indicated by the vote upon the Ordinance of Secession, when the Civil War opened they were practically united, in nearly all of the counties, in the support of the Confederate government, and the State furnished over 120,000 soldiers for the Confederate armies. Among these were such distinguished officers as Rodes, Kelly, Clanton, Clayton, Pelham, and scores of others who might be mentioned. Admiral Raphael Semmes, who commanded the *Alabama* in her famous duel with the *Kearsarge* off the coast of France, June 19, 1864, was an Alabamian. In council, as well as in the field and afloat, Alabama contributed able men to the service of the Confederacy—such men, for instance, as Leroy Pope Walker and Thomas Hill Watts, who were members of the cabinet of President Davis.

54. In the opening days of the Civil War the people of Alabama only heard the sound of the conflict in the distance; but before its close they saw much of its realities. One of the most important naval battles of the war occurred in Mobile Bay, August 5, 1864, when Admiral Farragut defeated the Confederate fleet commanded by Admiral Buchanan. Heavy fighting occurred on the eastern shore of Mobile Bay, at Spanish Fort and Blakely, in March and April, 1865. There were many important military operations throughout North Alabama, the most noted of which was the capture, May 3, 1863, of 1700 Federal troops by the Confederate General N. B. Forrest in the eastern part of Cherokee county; and in the closing days of the war there were skirmishes or battles at Elyton, Tuscaloosa, Pleasant Ridge, and Selma. On the 4th of May, 1865, General Richard Taylor surrendered the military department of which Alabama formed a part, to the Federal General Canby, and this put an end to military operations in the State.

55. The people of Alabama have always exhibited a commendable interest in education. The State has a sys-

tem of public schools that is constantly growing in efficiency. Chiefly to provide teachers for these schools, the State maintains seven normal schools or colleges: four are for white teachers, and are located at Florence, Troy, Jacksonville, and Livingston; the three normal schools for the training of colored teachers are at Tuskegee, Huntsville, and Montgomery. Besides this system of normal schools and an agricultural school provided for each congressional district, the University of Alabama, at Tuscaloosa, and the Agricultural and Mechanical College and Polytechnic Institute, at Auburn, both endowed institutions, are under State control. Provision has also been made for the establishment and support of a State industrial school for white girls. In addition, there are excellent private and denominational schools and colleges to be found in every section of the State, among the most noted of which may be mentioned the Southern University, at Greensboro; Howard College, at Eastlake, near Birmingham, and Spring Hill College, near Mobile.

56. The greatest charitable institution that the State maintains is the Alabama-Bryce Insane Hospital, at Tuscaloosa. It was opened in 1860 as the Alabama Insane Hospital, and after the death of its first great superintendent, the late Dr. Peter Bryce, his name was incorporated, by an act of the General Assembly, in that of the institution. Two other important State institutions are the Deaf and Dumb Asylum, opened in 1860, and the Blind Asylum, opened in 1867, both of which are located at Talladega. They were united under one management in 1870, with the late Dr. J. H. Johnson as superintendent.

57. In every department of public life Alabama has produced men worthy to serve as exemplars to the young. The roll of her distinguished public men is too long to be attempted here; but among her great governors may be mentioned Winston, Watts, and Houston; among her

great party leaders, Fitzpatrick, Yancey, and Hilliard; among her great judges, John A. Campbell, Edmund S. Dargan, Abram J. Walker, and George W. Stone. Alabama furnished a Vice-President of the United States in the person of William R. King, and among her great representatives and senators in the Federal Congress in the past were Dixon H. Lewis, Arthur P. Bagby, and Clement Claiborne Clay. Among her men of letters of the past generation, Albert J. Pickett and Alexander B. Meek deserve especial honor for the patriotic work which they accomplished in preserving the early history of the State.

58. Emerson has said, "America is another word for opportunity." Nowhere else in this great American republic are greater opportunities offered to the young than in Alabama. In variety of soil and climate, in mineral resources, in navigable waterways—in fact, in a generous combination of the natural resources from which material wealth and power are drawn—she is surpassed by no other State of the Union. It remains with an intelligent and virtuous citizenship to perpetuate within her borders the blessings of good government, so necessary to the happiness and prosperity of all her people.



THE GREAT SEAL OF THE STATE OF ALABAMA.

CHAPTER IV.

THE PRESENT STATE GOVERNMENT OF ALABAMA.

59. The Citizen.—The fourteenth amendment to the Constitution of the United States declares that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” There is thus declared a double citizenship, which may be held and enjoyed by the same person at the same time. Under that amendment to the Constitution, “all persons,” women and children, as well as adult males, who fulfil the conditions as to birth and naturalization, are citizens both of the State and of the United States.¹

60. The Voter, or Elector.—All citizens, however, are not voters. Suffrage, or the right to vote, is not a natural right, but is one which is conferred by the State. The power to prescribe the qualifications of voters, or electors,

¹ “A citizen of a given State or country is one who owes it allegiance and is entitled to its protection.”

rests with the States, under the restriction, however, imposed by the fifteenth amendment to the Constitution of the United States, that such qualifications shall not be based upon "race, color, or previous condition of servitude."¹ The State constitution might fix or limit the suffrage upon any other basis than that prohibited by the Constitution of the United States—as, for instance, upon an educational or property qualification. Under the present constitution of Alabama, however, every male citizen over twenty-one years old is entitled to vote, except idiots, insane persons, and those who have been convicted of certain crimes.²

61. The Functions of State Government.—In the formation or remodelling of the government of the United States by the adoption of the Constitution framed at Philadelphia in 1787, the States ceded to the Federal government certain powers which they had previously exercised in whole or in part. "How far," says Alexander Johnson, "the new Federal government succeeded to the sovereign rights of the States, each must decide for himself by a study of the Constitution, and on his decision will depend generally his party membership." There is no question, however, as to some of the powers ceded by the States. They agreed not to make any treaty with each other or with any foreign power; not to coin money; not to issue any paper money; not to make anything but gold and silver a legal tender in the payment of debts; not to levy any taxes upon exports or imports, without the consent of Congress; and not to engage in war, unless actually invaded, without the consent of Congress.

¹ There is also the earlier restriction contained in Art. I. Sect. 2 of the Constitution of the United States, that in each State the electors who choose members of the House of Representatives in Congress, "shall have the qualifications requisite for electors of the most numerous branch of the State legislature."

² See *Art. VIII.*

But, conceding the most liberal range of powers conferred by the Constitution upon the government of the United States, the great bulk of the work of government still rests with the States. In general terms, it may be said that the State government is charged with regulating the business dealings of citizens with each other, and with the prevention and punishment of crime—except crimes committed on the high seas, and crimes against the United States or against the laws of nations. The State regulates buying and selling, and the execution of deeds, mortgages, and other conveyances and contracts. It establishes and provides for the support of public schools and charitable institutions. It regulates the inheritance of property, the administration of estates, and the domestic relations of husband and wife, parent and child, master and servant. It grants charters within the State to corporations such as railroads, telegraph lines, banks—except national banks—insurance and manufacturing companies; and it regulates the organization of such corporations and their dealings with the public. It establishes and prescribes the mode of procedure in the various State courts, and it provides for the organization of county, city, and town governments, which deal directly with the local interests of the people. These are only some of the functions of the State government; to catalogue them all would be to “examine all the foundations of law and order.”¹

62. The Division of Powers.—The powers of the government of the State of Alabama are divided into three distinct departments—the legislative, the executive, and the judicial.²

THE LEGISLATIVE POWER.

63. The Legislative Power of the State is vested in a General Assembly, which consists of a Senate and a House

¹ WOODROW WILSON.

² See *Art. III.*

of Representatives. The power of the General Assembly is unlimited in the making of laws, except so far as it is restrained by the State or Federal constitutions or by the laws of Congress.¹ The representatives and half of the senators are chosen at the general State election held on the first Monday of August every two years.²

The General Assembly meets biennially, in even years, in the Capitol, at Montgomery, on Tuesday after the second Monday in November. The two houses sit apart, except when they meet in joint convention in the Hall of Representatives to elect officers; to witness the opening and publishing of the returns of election for State officers; or to constitute a tribunal for the trial of contests of elections for State officers.

The General Assembly cannot remain in session longer than fifty working days. Neither house can adjourn for more than three days, nor to any other place than that in which it may be sitting, without the consent of the other. A majority of each house constitutes a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members.

Each house has power to judge of the qualifications of its members; to determine its rules of procedure; and to punish members or others for contempt or disorderly conduct in its presence. Members of both houses are privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the session, except for treason, felony, breach of the peace, or violation of their oath of office. The pay of representatives and senators is four dollars per day,³ and

¹ When the General Assembly is convened in special session by proclamation of the governor, it cannot legislate upon any other subjects than those designated in the proclamation.

² For qualifications and terms of office, see *Art. IV. Sects. 3, 4, and 9.*

³ The president of the Senate and the speaker of the House of Representatives are each paid six dollars per day.



THE CAPITOL BUILDING AT MONTGOMERY, ALA.

ten cents a mile in going to and returning from the seat of government, to be computed by the nearest usual line of travel; and they are also supplied at the expense of the State with such stationery as they may need.

64. The Senate.—The Senate of Alabama is limited by the constitution to thirty-three members, one for each of the senatorial districts into which the State is divided. The State is re-districted every ten years, when a new census is taken, and the districts must have as nearly as possible, without dividing counties, the same number of inhabitants. At the beginning of each regular meeting of the General Assembly, the Senate is organized by electing one of its number a presiding officer, who is known as the president of the Senate; and it also elects its subordinate officers, who are not members of the body, to-wit: secretary, assistant secretary, enrolling and engrossing clerk, doorkeeper, and assistant doorkeeper. The president appoints the standing committees of the Senate; and the more important committees are authorized to employ clerks. The Senate can originate all bills, except those providing for raising revenue—to which, however, it has the right to propose amendments. Besides its general legislative power, it shares somewhat in the executive power in that it has the right to confirm or reject certain appointments of the governor, and in the judicial power in that it may sit as a court of impeachment to try the governor, secretary of state, auditor, treasurer, attorney-general, superintendent of education, and judges of the supreme court, on articles or charges preferred by the House of Representatives.¹

65. The House of Representatives.—The House of Representatives consists of not more than one hundred members, and representation is apportioned every ten years, after a new census, among the counties; but every county

¹ See *Art. VII. Sect. 1.*

must have at least one representative. The body is organized by electing one of its own members as a presiding officer, who is known as the speaker of the House, and who is charged, among other duties, with appointing its standing committees. The House elects its subordinate officers, who are not members, to-wit: clerk, assistant clerk, enrolling clerk, engrossing clerk, doorkeeper, and assistant doorkeeper. The House may originate any bill, and under the constitution it is specially charged with originating bills for raising a sufficient revenue by taxation and otherwise, to meet all lawful demands upon the State treasury.

66. How a Law is Made.—A law is originated in the form of a "bill" introduced by a member of either house. The bill must contain but one subject, which must be clearly expressed in its title.¹ It must be referred to its appropriate committee in both houses. It must be read on three different days in each house, and when put on its final passage it must be read at length and the yea and nay votes must be recorded.² It must receive a majority of the votes of the members present in each house. It is then signed by the presiding officers of both houses and sent to the governor. If he approves it, it becomes a law. If he refuses to approve it, it may be passed over his veto by a majority of all the members *elected* in each house. If the governor does not approve or veto the bill within five days after it is presented to him, it becomes a law, unless in the meantime the General Assembly should adjourn, in which case it fails to become a law.³ Either house may amend a bill that comes to it from the other house, and it is then sent back to the house in which it originated to have the amendment concurred in. If the two houses cannot agree, a conference committee is appointed from each house, which may agree upon a compromise

¹ For exceptions, see *Art. IV. Sect. 2.*

² See *Art. IV. Sect. 21.*

³ "A pocket veto."

measure to be reported back to the respective houses. The style of all laws is: "*Be it enacted by the General Assembly of Alabama.*"

THE EXECUTIVE POWER.

67. The Executive Department of the State government consists of the governor, the secretary of state, the State treasurer, the State auditor, the attorney-general, the superintendent of education, and the commissioner of agriculture. All of the State executive offices were created by the constitution except that of commissioner of agriculture, which is a statutory office.¹ The officers are elected for a term of two years on the first Monday of August of the even years. There is no constitutional or statutory limit to the number of terms for which a State executive officer may be elected; but well-established custom has limited the number to two terms.²

68. The Governor.—The supreme executive power of the State is vested in a chief magistrate, styled "The Governor of the State of Alabama," whose duty it is to see that the laws are faithfully executed.³ He has a general supervision of all the executive departments of the State government, and he may require from the heads of departments written reports, under oath, on any subject relating to the duties of their respective departments. He must give the General Assembly all needed information as to the State government, and recommend to it such measures as he thinks important. It is his duty to present to the General Assembly, at the commencement of each regular session, estimates of the amount of revenue

¹ There are various administrative officers, boards, and commissions created by statute to assist in the administration of the State government, the more important of which will be noted hereafter.

² This custom is not so well established in the case of superintendents of education as in that of the other officials.

³ For qualifications of the governor, see *Art. V. Sect. 6.*

necessary to be raised to meet all demands upon the State treasury.

The governor has power to remit fines and to grant pardons, except in cases of impeachment and treason, and to fill by appointment all vacancies that may occur among the State executive officers, judges, chancellors, and county officers. With the consent of the Senate, he appoints railroad commissioners, militia generals, and trustees of various State educational and charitable institutions. He has the power of absolute appointment of convict inspectors, mine inspector, examiner of public accounts, and other State and county officials.¹

The governor may be impeached and removed from office for any wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offence involving moral turpitude. If the governor should resign during the session of the General Assembly, he must send his resignation to the president of the Senate; otherwise, to the secretary of state, who must notify the president of the Senate. When the office of governor becomes vacant for any cause, the president of the Senate must act as governor until a new governor is elected. If the president of the Senate should fail to qualify, or should die or resign, then the speaker of the House of Representatives must administer the government until the next election.² The salary of the governor is \$3000 a year.

69. Military Organization.—The governor is commander-in-chief of the militia, including the volunteer forces of the State, except when they are called into the service of the United States. The volunteer military forces, as distinguished from the unorganized militia, are designated as

¹ The governor has power to appoint a private secretary and a recording secretary. The private secretary is made by statute "the keeper of the Capitol," and he has charge of the official correspondence of the governor.

² See *Art. V. Sect. 15.*

the "Alabama State Troops," and the following staff officers are appointed and commissioned by the governor as officers of such troops, and hold office at his pleasure: adjutant-general,¹ inspector-general, judge-advocate-general, quartermaster-general, surgeon-general, commissary-general, and paymaster-general, each with the rank of colonel; and assistant adjutant-general and four aides-de-camp, with the rank of lieutenant-colonel. An act of the General Assembly, approved February 18, 1895, authorized the organization of the several regiments of the "Alabama State Troops" into a brigade under the immediate command of a brigadier-general, appointed by the governor and confirmed by the Senate. His term of office is four years; but he may be removed from office at the will of the governor.²

70. The Secretary of State is the keeper of the Great Seal of the State, which he affixes to such instruments as the law requires, and he registers all the official acts of the governor. He is charged with preserving the original statutes and other papers belonging to the General Assembly, and with superintending the publication of the Acts of the General Assembly. It is his duty to attest commissions, pardons, and all other executive documents; to record all grants issued by the State; to keep all books, maps, and field notes of the United States land surveys for this State; to supply the books and stationery for the

¹ The adjutant-general is chief-of-staff to the governor, and he issues all orders of the governor to the military forces of the State. He is charged with preserving the arms and other military stores of the State, and with distributing them to the State troops. It is his duty to keep a roster of all the officers of the State troops and to keep on file in his office all reports made to him. He may be said to be the military executive officer of the State government.

² A major-general and a brigadier-general for each congressional district are also appointed by the governor for the unorganized militia of the State, which consists of all able-bodied male citizens between the ages of eighteen and forty-five.

several departments of the State government; to receive election returns required by law to be sent to him; and to receive and file the bonds of State and county officials. He is the custodian of all books—such as codes of laws, acts and journals of the General Assembly, and reports of the supreme court—kept for sale by the State. He must give bond for the faithful performance of his duties in the sum of \$10,000, which must be approved by the governor and deposited in the office of the auditor. His salary is \$1800 a year.

71. The State Treasurer receives and keeps the money of the State and pays it out on warrants legally drawn by the auditor. It is his duty to keep accurate accounts of the receipts and expenditures; to take receipts for all payments and file such receipts with warrants, in chronological order, for each fiscal year; to make an itemized report to the General Assembly of amounts received and paid out, with an exact statement of the balance in the treasury. With the approval of the governor, the treasurer may designate some bank in the city of New York as the fiscal agent of the State to pay the interest on its bonded indebtedness. The treasurer gives bond in the sum of \$250,000, which must be approved by the governor, recorded by the secretary of state, and filed with the auditor. His salary is \$2100 a year.

72. The State Auditor examines and adjusts the claims of all persons against the State, where provision for payment has been made by law, and draws the warrants on the treasurer for the payment of all money out of the treasury. It is his duty to audit the accounts of all public officers, keeping a regular account with every person in each county in the State who is authorized to receive any part of the State revenue. In exercising the functions of a general supervision of the revenue, he must direct the forms to be used by all public officials in collecting, keeping accounts, and making returns of the

same. He must give bond, satisfactory to the governor, in the sum of \$20,000. His salary is \$1800.

73. The Attorney-General is the legal adviser of the governor and of the heads of departments in all matters relating to their respective departments. It is also his duty when requested, to give his legal advice to the chairmen of the judiciary committees of both houses of the General Assembly. He represents the State in all criminal cases in the supreme court, and in all civil suits in which the State is interested. He also represents the State in all civil proceedings in which it may be interested in the courts of Montgomery county, and he may be required by the governor to represent the State in the courts of other States or of the United States. He must make an annual report to the governor on the criminal administration of the State, making such suggestions as to the suppression of crime as he may deem proper. He must give bond, approved by the governor, in the sum of \$10,000. His salary is \$2500.

74. The Superintendent of Education is charged with the administration of the public school system of the State. It is his duty to apportion all money belonging to the educational fund and to see to its proper disbursement; and, with this end in view, he must keep accurate accounts with all officers who become custodians of any part of that fund. He is charged with visiting every county in the State, as far as practicable, for the purpose of inspecting the schools and their management, and for the purpose of diffusing as widely as possible information as to the importance of public schools and the best methods of their management. He must also encourage and assist in organizing and conducting teachers' and superintendents' institutes. It is his duty to prepare such blanks as are needed in the administration of the school system. He has power to appoint county superintendents of education in counties where they are not elected. He is *ex-*

officio a member of the board of trustees of the State university, of the agricultural and mechanical college, and of some of the normal schools. His salary is \$2250.

75. Commissioner of Agriculture.—When the office of commissioner of agriculture was created, in 1885, it was filled by appointment of the governor; but, by an act of the General Assembly approved February 18, 1891, it was made an elective office and was put upon the same footing, in this respect, with the constitutional executive offices. The general duties of the commissioner are to encourage the proper development of agriculture and kindred industries; to collect and publish crop and other statistics; and to have the diseases of grains and other crops investigated. Commercial fertilizers are sold in this State under his supervision and by his license, after samples of such fertilizers have been analyzed by the State chemist. Duplicates of specimens in geology and mineralogy collected by the State geologist are required by law to be deposited in the commissioner's office. The commissioner's salary is \$2100.

76. The State Examiner of Public Accounts is appointed by the governor and holds office at his pleasure. It is his duty, under the direction of the governor, to examine the books, accounts, and vouchers of all State officers and State institutions. The governor may also require him to examine the accounts of any county official charged with the collection or disbursement of any part of the public revenue. He is paid ten dollars per day while at work, and the governor prescribes the time for which he shall be employed.

77. The Inspector of Mines is appointed by the governor, and holds office for a term of two years. It is his duty to visit, once in every four months, all underground mines in the State where twenty or more miners are employed, and to point out what changes in ventilation, fixtures, or machinery are required. He is required to keep

in his office, which must be in the city of Birmingham, correct maps of all mines in the State. His salary is \$1500 a year, with an allowance of \$400 a year for traveling expenses.

78. The Board of Railroad Commissioners consists of a president and two associates appointed by the governor and confirmed by the Senate for terms of six years. The board is charged with a general supervision of all the railroads of the State. It is the duty of the commissioners to examine the railroads from time to time, as they may deem necessary; to keep themselves informed as to their condition and the manner in which they are operated; to recommend to the railroad officials such measures and regulations as are deemed conducive to the public safety and interest; and to exercise such supervision over all tariffs of charges for transportation as justice to the public and to the railroads may require. The salary of the president is \$3500 a year and that of the associate commissioners, \$3000 each.

79. The Board of Convict Inspectors consists of a president and two associate inspectors, one of whom must be a physician, who are appointed by the governor for terms of two years. The president of the board superintends the management of the convicts, and it is his duty to see that all laws in relation to them are enforced. The board adopts such rules, approved by the governor, as are necessary to secure the humane treatment of the convicts; and one of the inspectors must visit at least once in every two weeks the several places of confinement of convicts to examine the food, clothes, quarters, and bedding furnished them. Among other requirements, the biennial report of the inspectors must show what provision is made for the moral and religious instruction of the convicts. The president of the board must keep his office in the Capitol, where full records must be made of all matters pertaining to the convicts. The salary of the president is \$1800 a

year; that of the inspector who is a physician, \$1700; and that of the other inspector \$1500. Travelling expenses are allowed inspectors while absent from their place of residence on official duty.

80. The State Board of Health is the Medical Association of Alabama, which performs its functions chiefly through the State health officer and a board of ten censors, whom it elects or appoints. Its duties are to exercise a general superintendence of the county boards of health; to inquire into the causes and the means of prevention of diseases; to investigate the influences of localities and employments upon the public health; and to act as an advisory board to the State government in all hygienic and medical matters. It collects vital statistics, inspects State institutions, and co-operates with the county medical boards in licensing physicians.

81. Other Administrative Officers, Boards or Commissions have been, or may be, created from time to time, by acts of the General Assembly, to assist the State executive officers in administering the affairs of the government. Usually the names of such officers or boards indicate their duties in carrying on the governmental work of the State. Among the officers and boards heretofore created may be mentioned the State geologist, the State chemist, the board of oyster inspectors, the commission of lunacy, and the State board of embalmers.¹

THE JUDICIAL POWER.

82. The Judicial Department of the State government consists of a supreme court, circuit courts, chancery courts, probate courts,² and such other inferior courts of

¹ The teacher should make himself familiar with the functions of these officers and boards by reference to the statutes respectively creating them.

² As the probate judge is a county officer, his jurisdiction and functions will be stated in the succeeding chapter, on "Local Government in Alabama."

law and equity as the General Assembly may from time to time establish.¹ All judges of the courts established by the constitution are elected for terms of six years, and there is no constitutional or statutory limit to the number of terms for which a judge may be elected.

83. The Supreme Court consists at present of a chief-justice and four associate justices. Except as otherwise directed in the constitution, it has only appellate jurisdiction.² It has original jurisdiction in all cases of impeachment of chancellors, circuit judges, probate judges, circuit solicitors, judges of inferior statutory courts, and other State officials, such as railroad commissioners. It has appellate jurisdiction in all cases which have been tried in the lower courts and which have come up, in the manner prescribed by law, for final adjudication. When a case is appealed to the supreme court, a record of it in the lower court, called a "transcript," is sent up. When the case comes on for trial, if it appears that all the evidence is set out, the supreme court may either affirm the decision of the lower court, or it may reverse it and render such judgment as should have been given, or it may remand the case generally, or it may remand it with directions to the lower court to enter the proper judgment, order, or decree. The court or a majority of the justices renders the decision in the form of an "opinion" delivered by one of the justices, in which the other justices concur, or from which a minority may dissent. The decision of the court is final, unless it involves an interpretation of the Constitution or laws of the United States, in which case it may be appealed to the supreme court of the United States. The officers of the supreme court of Alabama—the clerk, the reporter, and the marshal and librarian—are appointed by the justices.³ It is the duty of the reporter to compile

¹ See *Art. VI. Sect. 1.*

² See *Art. VI. Sect. 2.*

³ The justices also appoint the secretary of the chief-justice.

the decisions of the supreme court and to superintend their publication in book form. These volumes constitute the Supreme Court Reports, and the decisions which they contain establish precedents for future cases involving similar propositions of law. The supreme court meets at the Capitol in Montgomery on the first Tuesday of November in each year and the term continues until the last of June. The salary of the justices is \$3600 each.

84. Circuit Courts.—The State is divided into thirteen judicial circuits, for each of which there is elected a judge by the voters of the circuit. The only constitutional limit to the number of circuits into which the State may be divided by the General Assembly, is that there must not be less than three counties nor more than twelve in any one circuit.¹ The judge must hold court in each county in his circuit at least twice a year.² The circuit court has original jurisdiction in all criminal cases, and in civil cases where more than fifty dollars is involved. It can also entertain appeals in both civil and criminal cases from inferior courts. The salary of a circuit judge is \$2500 per annum.

85. City Courts have been established, from time to time, by acts of the General Assembly, in the more important municipalities of the State; and they have, in the counties in which they are respectively established, unless otherwise provided, the same criminal jurisdiction, both original and appellate, that the circuit courts have. Some of the city courts have concurrent civil jurisdiction with the circuit courts in the counties in which they exist, while others have both common-law and equity jurisdic-

¹ See *Art. VI. Sect. 4.*

² Whenever the governor is notified that the judge of any circuit will not be able to hold court in a given county or counties, he is authorized to appoint a special judge for that purpose. The pay of such special judge is ten dollars per day and his actual or necessary expenses.

tion. But the jurisdiction and the method of appointment, the terms of service, and the salaries of the judges, solicitors, and other officers of the various statutory courts in question are determined by the acts of the General Assembly respectively creating them.

86. The Circuit Solicitor, who is elected by joint vote of the General Assembly for a term of six years, must be present at each regular term of the circuit court, and at each special term held for trial of persons charged with felony. It is his duty to attend on the grand juries, advise them in relation to matters of law, and examine and swear witnesses before them; to draw up all indictments and to prosecute all indictable offences; and to prosecute and defend any civil action in the circuit court in the prosecution or defence of which the State is interested. The salary of a circuit solicitor is \$2400 a year, and a certain commission on fees earned by him for convictions, and actually paid into the State treasury—provided such commissions do not exceed \$600. The duties of city solicitors and county solicitors in the counties where their election or appointment has been provided for by special legislation, are similar to those of the circuit solicitors.

87. Chancery Courts.—The State is divided into five chancery divisions, with a chancellor for each, who is elected by the voters of the division. The chancery divisions are subdivided into districts, usually one county constituting a district, in each of which the chancellor holds his court at least once a year. If for any reason the chancellor cannot hold his courts at the appointed time the governor may appoint a special chancellor for that purpose. The chancery court has jurisdiction in all causes in which a plain and adequate remedy is not provided in the other judicial tribunals; in cases founded on a gambling consideration, so far as to sustain a bill of discovery and grant relief; in the granting of divorces; and in such other cases as may be provided by law. The salary of a chan-

cellor is \$2500 a year. The records of the chancery court are kept by an officer known as the register in chancery, who may make and direct, during the vacation of the court, all orders, decrees, and other proceedings which do not affect the merits of causes, but are preparatory to the hearing of the causes upon their merits by the chancellor. The register is appointed by the chancellor, and may be removed by him for cause.

88. The Income of the State.—In order to perform its proper functions of government, the State must be provided with a sufficient revenue, and this must be raised without laying “any imposts or duties on imports or exports.” The income of Alabama is derived from taxes levied on all real and personal property in the State, except that of religious, educational, and charitable institutions, as provided by the State constitution, and except certain other property exempted by the General Assembly; from licenses, fines, and penalties; from taxes on the gross premium receipts of life, fire and marine insurance companies; and from various other sources.¹ The General Assembly may levy a poll-tax of one dollar and fifty cents; but it must be applied exclusively in aid of the public school fund in the county in which it is paid. This tax is collected from all male inhabitants of the State, not exempt by law, between the ages of twenty-one and forty-five years. Under the constitution the General Assembly cannot levy in any one year a greater rate of taxation than three-fourths of one per centum on the value of taxable property,² and no county in the State can levy a greater

¹ Under the liberal laws for the inheritance of property in Alabama, escheat is an unimportant factor in the income of the State; and there is now no State tax upon individual incomes. The constitution provides that all escheats must be applied to the support of the public schools. (*Art. XIII. Sect. 3.*)

² The present rate of taxation by the State is five and a half mills on every dollar's worth of property—or fifty-five cents on every hundred dollars' worth.

rate than one-half of one per centum, except as provided in the constitution.¹ The governor, the secretary of state, the State auditor, and the State treasurer constitute the State Board of Assessment for fixing the taxable value of the property of railroad and other companies, returns of which are required to be made to the State auditor. No *new* debt can be incurred by the State, except to repel invasion or to suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the General Assembly. But the governor is authorized to negotiate temporary loans, never to exceed one hundred thousand dollars, to meet deficiencies in the treasury.

¹ See *Art. XI. Sects. 1-5.*

CHAPTER V.

LOCAL GOVERNMENT IN ALABAMA.

THE COUNTY.

89. *County Organization.*—The State of Alabama is divided into sixty-six counties,¹ each of which is a corporation with power to sue and be sued in any court of record. The supreme court of Alabama has declared² that counties are “created by the State as a means of exercising a portion of its political power by local administrations,” and that on them the State has conferred “a part of the sovereign authority and duty to ensure domestic tranquillity, and promote the general welfare within their territorial limits.” The county is an administrative division of the State, on the duly constituted authorities of which are conferred the most important functions of local government—except in so far as county administration is supplemented or superseded by municipal government within the corporate limits of towns and cities. It is evident from the origin and nature of the county government that it must act under the control of the State government and subordinate to its power.

¹ The organization of a territorial government, out of which grew the State government, preceded the organization of counties (*see* ¶ 23). In Alabama, as in the Southern and Western States generally, the State government was thus the first thing, and the subdivision into counties, precincts, etc., followed. This was the reverse of the process of “State-building” in New England, where independent, self-governing communities or towns first existed, and were afterwards grouped into the larger political divisions.

² *Chambers County v. Lee County*, 55 Ala. p. 537.

The General Assembly may, by a two-thirds vote of each house, arrange and designate boundaries for the counties; but no new county can be formed of less extent than six hundred square miles, and no existing county can be reduced to less than six hundred square miles. Furthermore, no new county can be formed which does not contain a sufficient number of inhabitants to entitle it to one representative in the General Assembly under the ratio of representation existing at the time of its formation, nor can the territory of any existing county be cut down so that its population under the existing ratio will not entitle it to at least one representative.¹

The functions of local administration and government within the counties are performed chiefly by the following officers: judge of probate, sheriff, clerk of the circuit court, commissioners of roads and revenues, tax-assessor, tax-collector,² treasurer, superintendent of education, coroner, county surveyors, registrar of voters,³ pension examiners, and members of the county boards of equalization.

90. The County-seat.—The county officials keep their offices at the county-seat, and, for the most part, in the county court-house. The county-seat is usually a village or town selected on account of its convenience of access from the different parts of the county; but sometimes a site is selected, on account of its central location, where there is at the time no village or town. When a new county is formed the General Assembly authorizes a vote to be taken in such county upon the location of the county-

¹ See *Art. II. Sect. 2.*

² In a few of the counties the office of tax-collector has been combined with that of sheriff. Special legislation has resulted in other minor variations in the organization of the county authorities. These variations can be pointed out by the teacher in the counties in which they occur.

³ The duty of the registrar in connection with the election machinery of the State will be noted in the succeeding chapter.

seat, and the General Assembly may, at any time afterwards, authorize a vote to be taken upon a change of location. The county authorities provide for the erection at the county-seat of a court-house, a jail, and sometimes other public buildings.

91. The Judge of Probate is elected for a term of six years. He has original jurisdiction in all matters relating to the probate of wills and the execution of the same; to the administration of estates of deceased persons; to the appointment and removal of guardians of minors and persons of unsound mind; to the binding out of apprentices; to the allotment of dower in lands; and to the partition of lands among joint owners. It is his duty to issue all necessary citations, subpœnas, executions, and other processes necessary for the execution of his powers; to keep minutes of all his official acts and proceedings; to file and record deeds and other conveyances; to issue marriage licenses; to issue licenses to liquor dealers and other revenue licenses; and to perform such other official acts as may be by law required of him. The judge of probate has authority to employ, at his own expense, a clerk who can perform all the duties of the office which are not judicial in their character. The judge of probate also sits as judge of the county court¹ for the trial of all misdemeanors, that court having concurrent jurisdiction in these cases with the circuit and city courts. The pay of the judge of probate is chiefly from fees for services rendered.

92. The Sheriff is the chief executive officer of the county. By the constitution² he is made a part of the

¹ The circuit-solicitor (see ¶ 86) has power to appoint a deputy solicitor, popularly known as a "county solicitor," to prosecute offences before the county court in the counties where the election or appointment of county or city solicitors has not been provided for by special legislation.

² See *Art. V. Sect. 1.*

executive machinery of the State government, and is hence directly under the orders of the governor in enforcing the laws of the State. The sheriff is elected for a term of four years, and he cannot be his own successor.¹ It is his duty to execute and return all writs, citations, subpoenas, warrants, executions, and other processes issued by proper authority; to attend the chancery, circuit, probate, and county courts; and to obey all lawful orders and directions of such courts. The sheriff has charge of the county jail and the county court-house. His pay is derived chiefly from fees, fixed by law, for services rendered.

93. The Clerk of the Circuit Court is elected for a term of six years. It is his duty to issue all summonses, subpoenas, writs, executions and other processes under authority of the court; to keep proper and separate dockets of civil and criminal cases; and to keep and record the minutes of each day's proceedings during the term of the court. His pay is chiefly from fees fixed by law.

94. The Court of County Commissioners is composed of the judge of probate, as principal judge, and four commissioners who are elected for terms of four years each². The importance of the functions of this body is so great that it may be said to constitute the county government. The court has power to direct and control the property of the county; to levy county taxes,³ as authorized by law; to examine and allow all claims against the county; to audit the accounts of all officers having to do with the receipts and disbursements of county money; and to make rules and regulations for the support of the poor of the county. It is charged with a general superin-

¹ See *Art. V. Sect. 26.*

² In some of the counties the functions of the court of county commissioners are performed by boards of revenue appointed by the governor.

³ See *Art. XI. Sect. 5.*

tendence of public roads, bridges, and buildings, and with all other matters affecting the material interests of the county. The probate judge and two commissioners, or three commissioners without the probate judge, constitute a quorum. The records of the court are kept by the judge of probate, who must issue all processes necessary to sustain its jurisdiction or maintain its authority.

95. Jury Commissioners.—The county commissioners or the members of the boards of revenue, not including the judge of probate, constitute—except in those counties otherwise provided for by special legislation—a board of jury commissioners, which is charged with performing all the duties required by law in relation to the selection and drawing of grand and petit jurors for the circuit and city courts. The jurors must be drawn from the male residents of the county over twenty-one and under sixty years of age, not exempt from jury duty, who are householders and freeholders, and who, in the opinion of the commissioners, are fit and competent to discharge their duties with honesty, impartiality and intelligence.

The commissioners, whether sitting as a court or as a board of jury commissioners, are paid two dollars and fifty cents for each day, and mileage at the rate of five cents.

96. The Tax Assessor and the County Board of Equalization.—The tax assessor is elected for a term of four years. It is his duty to visit each election precinct at least twice a year, having previously given notice of his appointments as prescribed by law, for the purpose of making a list of taxable property of each taxpayer. A county board of equalization was created by an act of the General Assembly approved February 18, 1895, composed of three members: the tax assessor, a member appointed by the governor for a term of four years, and a member elected by the court of county commissioners for a term of two years. The member appointed by the governor is chairman of the board and the tax assessor is secretary.

It is the duty of the board to examine each assessment list, and institute inquiry into the correctness of the tax valuations which it contains. The assessor is paid by commissions and fees. The other members of the board are paid three dollars per day each while actually at work equalizing taxes—the chairman being paid by the State, and the other member by the county.

97. The Tax Collector is elected for a term of four years, and he is charged with collecting the State and county taxes that are due from taxpayers. He must attend for this purpose, after having given the notice required by law, the voting-place in each election precinct in the county twice in each year, and his appointments must be at least thirty days apart. His pay is from commissions on the amounts collected and from fees.

98. The County Treasurer is elected for a term of four years. It is his duty to receive and keep the money of the county, and to pay it out on warrants drawn according to law; to register all claims against the county; and to keep a correct account of the receipts and disbursements of all money received and paid out by him for the county. His compensation is a commission, fixed by the commissioners' court, on the amount which he has paid out; but in no case must this commission exceed five per centum, nor must the aggregate amount exceed, in any one year, one thousand dollars.

99. The Coroner is elected for a term of four years. His principal duty is to hold an inquisition, called the coroner's inquest, over the body of any person who has been killed or who has suddenly died under such circumstances as afford a reasonable ground for the belief that such death has resulted from the unlawful act of another person. In case of a vacancy in the office of sheriff, or when the sheriff is imprisoned or is a party in interest, the coroner acts as sheriff. The coroner's pay is from fees.

100. The County Superintendent of Education is

appointed by the State superintendent of education, except in counties where special legislation has provided for his election. The term of office, unless otherwise specially provided, is two years; but the State superintendent may, at any time, for good cause, remove the county superintendent from office. The county superintendent has a general supervision of the public schools and the educational interests of the county. It is his duty to receive and pay out all money raised for the support of the public schools; and, acting with the teachers appointed by him as an educational board, to examine and license teachers in the public schools. It is his further duty to appoint township trustees for the public schools, except where their election has been specially provided for; and to establish and conduct teachers' institutes. He is required to make, on the first day of November, an annual report upon the public schools in his county to the State superintendent. Except in counties where it has been increased by special legislation, the salary of the county superintendent is seventy-five dollars a year, with a commission of two per centum on all money paid out by him.

101. County Surveyors.—The court of county commissioners is authorized to appoint two surveyors for the county, who hold office for the term of three years. It is the duty of each of the surveyors to execute and return all orders of surveys directed to him from any court of record in the State; and to make surveys of lands or lots in the county, at the request of any person interested, on the payment or tender of his probable fees. The court of county commissioners fixes the rate of compensation of the surveyors.

102. The County Board of Health.—The county medical society constitutes a board of health for the county. It elects a health officer for the county and fixes his term of office. It is the duty of the board of health to supervise the administration of the health laws of the State

within the county ; to examine into all cases of malignant epidemic diseases ; to collect vital statistics ; to take steps for the prevention and abatement of all nuisances ; and to exercise a general superintendence over the sanitary regulations of the public institutions situated in the county. The board of censors appointed by the county medical society constitute a board of medical examiners which, in affiliation with the State board of censors, examines and licenses physicians.

103. County Board of Examiners.—An act of the General Assembly approved February 18, 1895, provided for the appointment by the governor of a board of examiners for each county, to consist of three members, the duty of which board is to inquire into the merits of applications filed by indigent ex-Confederate soldiers and sailors, or their widows, for aid from the State. After the examination of each application, the board endorses it as approved or disapproved. The probate judge transmits to the State auditor such applications as are approved, and those which are disapproved are filed in the probate judge's office for future reference.

THE PRECINCT.

104. The Precinct.—The election precinct,¹ which is the most important subdivision of the county, is established or changed by the court of county commissioners as the convenience of voters may require ; but no change can be made within sixty days before an election, nor without three months' public notice. The number and boundaries of precincts and the place or places of holding elections must be known and designated as entered on the records of the court of county commissioners.

¹ In Alabama and Mississippi the term "beat" is popularly used to indicate a precinct (see *Century Dictionary*). In some of the later acts of the General Assembly of Alabama the two terms are used interchangeably.

105. The Justice of the Peace.—Two justices of the peace are elected by the voters of each precinct to hold office for a term of four years. Each justice of the peace presides in a court of his own and has jurisdiction in all actions founded on contract where the sum claimed does not exceed one hundred dollars; in all actions of forcible entry and unlawful detainer; and in all actions founded on any wrong or injury done where the damages claimed do not exceed fifty dollars, except in actions for slander and some others. Justices of the peace also have criminal jurisdiction in certain minor misdemeanors, and they sit as magistrates in the preliminary trial of higher offences to determine whether the accused persons shall be bound over to await the action of the higher courts.

106. The Notary Public.—The governor has power to appoint one notary public with the same jurisdiction as the justices of the peace in each election precinct in the county and one for each ward in cities of over five thousand inhabitants. He may also appoint notaries whose powers are strictly notarial—such as taking acknowledgments of deeds, mortgages, and other instruments.

107. The Constable.—There is also elected for a term of four years by the voters of each precinct a constable, who is the executive officer of the justices' courts, holding very much the same relations to these courts that the sheriffs hold to the higher courts.

THE TOWNSHIP.

108. The Township.—In Alabama, the township, which is a tract of land six miles square, is organized only for school purposes,¹ and the inhabitants of each township

¹ The *political* unit known as the "township" in the Middle and Western States and the "town" in the New England States, does not exist in Alabama. Here, as in other Southern States, the county is the unit of political organization and performs most of the functions of local government which in the North and West are performed, in a greater or less degree, by the "townships" or "towns."

are incorporated therefor according to the numbers of the land surveys of the United States. Three school trustees are appointed by the county superintendent of education for each township, except where their election has been provided for by special legislation. The township trustees have power to establish schools and to contract with teachers. It is their duty, in consultation with the parents and guardians of the school children of the township, at a meeting held on the last Monday of October, to determine the number and location of schools for the township, the time of opening and the length of session. They have charge of the renting, leasing, and selling of any school lands in the township. Their only compensation is exemption from road and jury duty and from the payment of a poll-tax.

MUNICIPAL GOVERNMENT.

109. The Town.—There are only two grades of municipal governments organized under the laws of Alabama—the town and the city. The inhabitants of a village,¹ the population of which is not less than one hundred nor more than three thousand, may become a body corporate upon a petition in writing, addressed to the probate judge of the county in which they reside. The petition must be signed by twenty or more adult male inhabitants and it must set forth the name by which it is proposed to incorporate the town and the territorial limits of the proposed corporation. The boundaries of the town cannot be fixed until a majority of the owners of the real estate situated within such boundaries have expressed their assent.²

¹ The term village is generally applied in Alabama to any small assemblage of houses which has not been incorporated. The term hamlet is rarely used here in this sense.

² Frequently towns, instead of being incorporated under the general laws of the State by the process here indicated, obtain special charters

110. Town Officers, and the Functions of Town Government.—The business of the town corporation is managed by an intendant and five councillors, styled the corporate authorities, who are elected for one year. The corporate authorities have power to pass such by-laws and ordinances as may be necessary and are not contrary to law ; to prevent and remove nuisances ; to license and tax various employments and businesses ; to restrain and prohibit gaming, disorderly conduct, and breaches of the peace ; to establish and regulate markets and town prisons ; to appoint a marshal, treasurer, clerk, and other necessary officers ; to purchase, hold, and dispose of property ; and to exercise such other powers as are conferred on them by law. The intendant has the powers and jurisdiction of a justice of the peace in all matters, civil and criminal, arising within the corporate limits of the town. The marshal has authority, within the corporate limits, to execute the lawful ordinances of the corporate authorities ; and he must, without warrant, arrest all persons breaking the peace or violating any ordinance.

111. The City.—In Alabama no dividing line based upon population has been fixed between the town and the city ; nor have cities been classed into grades upon a basis of population or otherwise. Usually a town does not apply for a city charter until its population has reached two or three thousand. Not unfrequently, however, charters are obtained for prospective cities that never go through the town stage of municipal development. The city is a corporation created by a special act of the General Assembly known as a charter. The charter names the city, enumerates its powers and privileges, creates the more important city offices, and provides for the election or appoint-

from the General Assembly. In such cases the organization and the powers of the town government are determined by the special act creating the municipality.

ment of city officials.¹ The charter may be amended from time to time, by an act of the General Assembly.

112. Functions of City Government.—It is the business of the city government to provide an adequate police force for the protection of life and property; to maintain charitable and educational institutions; to keep up streets and public parks; to maintain or to regulate water-works, gas-works, electric lights, etc.; to provide protection from fire; and to perform such other duties for the well-being of its inhabitants as its charter may require or permit.

113. The Council, or Board of Aldermen.—All the laws or ordinances necessary for the local government of the city are made by a representative body usually known as a board of aldermen or council, the members of which are elected from the different wards into which the city is divided. The board usually exercises all the powers conferred by statute upon the corporate authorities of the town, and such other powers as may be specially conferred upon it by the city charter.

114. The Mayor is the chief executive officer of the city, and is responsible for its good order and efficient government. His term of office and the special duties incumbent upon him are determined by the charter of the city. The various executive offices of the city, including the police force, are, in most cases, directly under his control and supervision. He usually presides over the meetings of the council. He holds, in most of the smaller cities, a court known as the mayor's court, which has concurrent jurisdiction with the county courts in the trial of misdemeanors as well as jurisdiction of offences against the city ordinances.

¹ The city governments of Alabama differ so much in matters of detail that no one can be taken as a perfect type of all. City teachers should require pupils to study the government of their own city in the class-rooms. Copies of city charters for this purpose can usually be obtained from the city officials.

115. The City Clerk.—In some of the cities the clerk is appointed by the council and in others he is elected by the voters. It is his duty to attend the meetings of the council, to keep the minutes of its proceedings, and to publish the ordinances adopted. He has charge of all the books, records, and papers of the city. In some of the cities his duties are merged with those of other officers—such as tax-assessor, or tax-collector.

116. The City Attorney.—Usually the council elects a city attorney, who is the legal adviser of the city authorities and represents the city in all cases in which it is a party at interest.

117. The Marshal is the chief of police in the smaller cities. It is his duty to arrest all violators of the law; to serve all papers issued by the mayor; and to attend the mayor's court. His duties and powers are similar to those of the sheriff and constable.

118. Municipal Revenues.—The income necessary to carry on the government of towns and cities is raised chiefly by taxing and licensing various employments and by taxing the real and personal property situated within the corporate limits. Very wide liberty is given the municipal authorities in the matter of taxing and licensing employments and businesses; but the constitution of the State limits the rate of municipal taxation upon property to one-half of one per centum upon its valuation, except as provided in the constitution.¹ An act of the General Assembly approved February 18, 1895, provided for the appointment by the mayor and council of every municipality in the State having one thousand or more inhabitants, of two appraisers of property situated or taxable within the corporate limits of such municipality. It is their duty to appraise the property, listed for taxation by the county tax-assessor, within such municipality. The appraisers

¹ See *Art. XI. Sect. 7.*

are paid two dollars and a half a day while engaged, provided that they shall not be employed more than twenty days in municipalities of less than five thousand inhabitants nor more than thirty days in those having over five thousand inhabitants.

CHAPTER VI.

HOW OFFICERS ARE CHOSEN BY THE ELECTORS.

119. Political Parties.—Among the most efficient factors in the government of the people in a free country are the organizations known as political parties. When any measure of absorbing public interest arises which must be decided upon by the voters, it is perfectly natural that those favoring the measure should unite into one organization and those opposing it into another. It was such a division that marked the beginning of political parties under the present government of the United States.

120. The Origin of Parties in the United States.—When the Constitution framed at Philadelphia in 1787¹ was submitted to the people of the States for ratification, those who favored its adoption were called "Federalists," and those who opposed its adoption were called "Anti-Federalists." This was the first real division of the people of the United States into political parties. Of course there had been divisions among the people on political subjects before that time; but the issues presented had not been broad or general enough to divide all the people of the whole country into two opposing organizations.

121. Underlying Principles in American Politics.—After the adoption of the Constitution, those who had favored its adoption were generally advocates of a strong central government—that is, they wished to give to the government of the United States as much power as could be drawn from a loose or liberal construction of the Con-

¹ See ¶ 61.

stitution. On the other hand, those who had opposed its adoption became advocates of a strict construction of the Constitution, so as to limit the power of the Federal government, and to maintain, as far as possible under that instrument, the power of the individual States. In spite of the fact that a number of political parties and factions have arisen in this country, based upon temporary or local issues, the main line of division here indicated, although at times somewhat obscured, can be traced through the whole course of our political history since the adoption of the Constitution.¹

122. Advantages of Political Organization.—It is through political organization that electors can make their combined influence and votes effective in the choice of officers and in the determination of governmental policies. In all political parties minor individual differences of opinion are held in abeyance, so that those who agree upon the most important issues before the people can work and vote together. The individual elector acting and voting without reference to others can never make his influence felt in public affairs. A thousand men with individual blows from walking-sticks could not batter down a door which would fall in an instant before a great beam hurled against it by the combined strength of twenty men. Again, the division of the people into political parties works in the interest of honest government. The party in charge of municipal, county, State, or national government is closely watched by the party or parties out of power. This jealous watching of public officials in the discharge of their duties tends to make a careful administration of public affairs, and insures the exposure of corrupt political practices. Then, again, the working of the machinery of

¹ While political parties usually grow out of differences among the people on questions of national interest, party contests also divide the people in State, county, and municipal elections. This results from the close connection, at many points, between local and national interests.

political parties greatly facilitates the election of officers, as will appear in the succeeding paragraphs.

123. How Parties are Organized.—The interests of the different political parties are managed by committees, at the head of each of which stands a chairman as chief executive officer. In a perfectly organized political party there would be a committee for each voting precinct in the county and for each ward in the town or city; but such thorough organization is rarely attained by any party. The interests of each party in the State are cared for by a State executive committee, and at the head of each party organization in the country stands the national executive committee. The power of the more important committees over the subordinate ones differs in the different parties and in different localities, according to customs or precedents, more or less established, popularly known as “party law.”

124. The Selection of Candidates.—The first step towards the selection of candidates for all elective offices is taken by the electors of the different parties in their precinct or ward meetings, usually called “primaries.” In these meetings the recognized members only of the party holding the meetings can participate. Sometimes in the primaries the electors vote directly for the candidates of their choice—and this is always the case where precinct or ward officers are to be chosen—but generally these meetings elect delegates to represent the precinct or ward in the county or city convention of the party. The delegates meet at the time appointed by the county or city executive committee, organize a convention, and proceed to nominate candidates for offices. If State officers are also to be nominated, the county convention sends delegates to the State convention; and when candidates for president and vice-president are to be nominated, the State convention sends delegates to the national convention of the party. County conventions also send delegates to the

conventions of the State senatorial districts, where the district is composed of more than one county, and to the conventions of the congressional districts, the judicial circuits and the chancery divisions. The representation to which precincts are entitled in the county conventions; counties in the State, congressional, and judicial conventions; and States in the national conventions, is based, either directly or indirectly, upon the population of each of these political divisions as given by the last preceding census.

125. The People Rule.—It will thus be seen that although a national convention, composed of a few hundred delegates, nominates candidates for President and Vice-President and puts forth the party's declaration of principles and policies, usually called a "platform," those delegates are acting only as the representatives of the electors who held the precinct primaries. If the delegates are faithful representatives, they only voice the sentiments and convictions of the majority of the electors who set in motion the political machinery at the precinct primary. Thus the people rule. With the individual electors of the different political parties rests, therefore, the responsibility of sending as their delegates to the various political conventions men who are honest and capable—men who will, in turn, delegate their delegated powers to capable and honest men. Good government rests, in a last analysis, upon the foundation of the watchfulness, the honesty, and the intelligence of the people.

126. Elections.—The choice of public officers begins, as has just been explained, with the nomination of candidates by the opposing political parties.¹ The next step is the election. Elections in Alabama are now held under what is popularly called the "Sayre election law"—a modi-

¹ Sometimes there are "independent" movements outside of the usual political organizations; but such movements are generally local and temporary, rarely extending beyond city or county politics.

fication of what is known as the Australian ballot system—which was approved February 21, 1893, and which was amended by an act of the General Assembly, approved February 18, 1895. Elections for State and county officers are held on the first Monday of August of the even years. Members of Congress and presidential electors are elected on the first Tuesday after the first Monday in November. Municipal officers are chosen at such times as are provided by the charters of each of the municipalities.

127. Registrars.—The governor appoints in each county a registrar of voters who holds office for four years. The registrar must appoint an assistant registrar for each precinct or ward, whose duty it is to make, under his supervision, a registration of the qualified electors¹ residing in such precincts or wards. The registration begins on the first Monday in May and continues for eighteen days, Sundays excepted; but in cities of ten thousand inhabitants or more, thirty days are allowed for registration. The assistant registrars must also be present at the polls on election day to register such persons as may have reached the age of twenty-one years since the last registration, and such other persons as are provided for in the law as amended.

128. Making the Ticket.—The judge of probate in each county is charged with having the ballots properly prepared, printed, and distributed to the voting-places in the different precincts or wards. It is his duty to have printed upon the ballot the names of all candidates for the different offices that have been nominated by any political party or faction, and whose nomination has been properly certified to him by the officers of the nominating convention, mass meeting, or caucus. The judge of probate must also cause to be printed on the ticket the name of any qualified elector who has been regularly petitioned

¹ See ¶ 60.

in writing to become a candidate for any county or municipal office by not less than twenty-five voters. In the case of a candidate for a State or Federal office, who has not been regularly nominated by some party or faction, he must be petitioned in writing by not less than five hundred electors in order to have his name placed on the ticket. Where the candidates are to be voted for by the electors of the whole State, or of an entire congressional district, judicial circuit, or chancery division, the certificate of nomination must be filed, within the prescribed time, with the secretary of state, who must immediately certify the same to the probate judges of the different counties. The names of the candidates for the same office must be printed alphabetically under the title of such office.

129. Election Officers.—The judge of probate, the sheriff, and the clerk of the circuit court, or any two of them, must appoint, at least thirty days before the holding of any election in their county, three inspectors for each place of voting, two of whom must be members of opposing political parties. They must also appoint one “returning officer” for each precinct. Notice to these officials and notice to the public of the approaching election must be given by the sheriff as provided by law. On opening the polls the inspectors must appoint two “markers,” one from each of the opposing political parties, whose duty it is to assist illiterate or physically disabled electors in preparing their ballots. The markers and the clerks of election must be appointed by the inspectors from lists of persons not less than six nor more than ten in any one beat, who may be suggested by the authorities of the opposing political parties.

130. Casting the Ballot.—It is the duty of the sheriff to provide at each voting-place a number of booths or compartments fixed with conveniences for marking the ballots. On entering the room where the election is being held, the

elector receives from one of the inspectors a ballot, retires to one of the booths, and there prepares the ballot, with or without the assistance of a marker, by placing a cross mark (X) before the name of the candidate of his choice for each office to be filled. When the ballot of the elector is thus prepared, he must fold it so as to conceal its face, and hand it to the receiving inspector, by whom it is deposited in the ballot-box.

131. Counting the Vote.—The voting-places in each precinct or ward must be opened between eight and nine o'clock in the morning and kept open, without intermission or adjournment, until the hour of five in the afternoon, and no longer. As soon as the polls are closed, it is the duty of the inspectors to count the vote. When the ballots are counted, the inspectors must make a statement in writing of the number of votes received for each person and for what office. They must also certify to a list of voters, called a poll list, who have voted in the election, and the statement of the votes and the poll list, with a list of the registered voters in the ward or precinct, must be sealed up in a box addressed to the sheriff of the county and placed in the hands of the returning officer of the precinct. After the ballots have been counted and a statement of votes made, the inspectors must roll up the ballots and label them, and seal them up in a box with a duplicate poll list, and this sealed box must be kept by one of the inspectors for sixty days. At the end of that time, if no contest of the election has been instituted, the ballots must be destroyed.

132. Declaration of the Result.—On the Saturday next following the election, at the hour of twelve, meridian, the sheriff, who is the returning officer for the county, the judge of probate, and the clerk of the circuit court, acting as a board of supervisors, meet at the court-house, and, in the presence of such persons as choose to attend, make a correct statement from the returns of the votes of the sev-

eral precincts of the county, of the whole number of votes given therein for each officer, and the persons to whom such votes were given. Within ten days after ascertaining the result of an election of county officers, the board of supervisors must make a public declaration of the same as provided by law. As soon as the board of supervisors has ascertained the result of an election, they must certify the same to the secretary of state, except as to the election for governor, secretary of state, auditor, treasurer, superintendent of education, and attorney-general, which must be forwarded by the judge of probate to the governor for the speaker of the House of Representatives at least ten days before the time for the next meeting of the General Assembly. All returns required by law to be sent to the secretary of state must be opened and counted within fifteen days after the election in the presence of the governor, secretary of state, and attorney-general. The governor must give notice by proclamation of the election of such officers as are not required by law to be publicly declared by the county board of supervisors.

133. The Officer-elect.—When the election of an officer has been declared as provided by law he is only an officer-elect. If the term of his predecessor has not expired, he must wait for such expiration. Where a bond is required, as is the case with most public officials, he must have it approved by such officer as is authorized by law to approve it, before a commission can be issued to him. As a final step, before entering on the discharge of his duties he must take the prescribed oath of office.¹

134. Election Contests.—The judge of probate has original jurisdiction in the trial of all election contests for precinct offices and for all offices filled by the vote of a single county, except those of representatives and senators in the General Assembly. Such contests must be begun

¹ See *Art. XV. Sect. 1.*

within fifteen days after a declaration of the results of the election. The person whose election is thus contested is entitled to a trial by jury, the issue to be made up under the direction of the court and a jury summoned as in other cases in the probate court. The circuit judge has jurisdiction of the trial of contests of election of probate judges, while the chancellor of the division in which the election was held has jurisdiction in the contest of the election of any circuit judge. In contests before a probate judge an appeal lies to the circuit court, and cases before the circuit judge or chancellor may be appealed to the supreme court.

Each house of the General Assembly is a judge of the qualification of its own members,¹ and hence contests for seats in the House of Representatives and in the Senate must be tried before those bodies.

An act of the General Assembly approved February 16, 1895, provided for the trial of election contests for governor, secretary of state, State auditor, State treasurer, and attorney-general by the two houses of the General Assembly sitting as a tribunal in joint convention presided over by the speaker of the House of Representatives. The contest may be inaugurated by any qualified elector on any of the following grounds: 1. Malconduct, fraud, or corruption on the part of any inspector, clerk, returning officer, member of board of supervisors, or marker. 2. When the person declared to be elected to office was not eligible thereto at the time of such election; 3. On account of illegal votes; 4. On account of the rejection of legal votes; and 5. On account of bribery, intimidation, or other malconduct which prevented a fair, free, and full exercise of the elective franchise. The contestant must give bond in the sum of \$5000 to cover the costs of the contest in case it results in favor of the contestee. When

¹ See *Art. IV. Sect. 8.*

a contest is instituted the joint convention appoints a commission of three senators and five representatives to take testimony in the matter. The commission must examine the evidence and report its conclusions to the joint convention; and all testimony taken by it must be returned to the speaker of the House. A majority of the joint convention constitutes a quorum to try all issues involved in the contest.

CONSTITUTION
OF THE
STATE OF ALABAMA.
1875.¹



PREAMBLE.

WE, the people of the State of Alabama, in order to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure to ourselves and to our posterity life, liberty, and property, profoundly grateful to Almighty God for this inestimable right, and invoking His favor and guidance, do ordain and establish the following Constitution and form of government for the State of Alabama.

ARTICLE I.

DECLARATION OF RIGHTS.

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

SECTION 1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

SEC. 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights.

¹ Became operative December 6th, 1875.

SEC. 3. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government, in such manner as they may deem expedient.

SEC. 4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust, under this State; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

SEC. 5. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 6. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

SEC. 7. That in all criminal prosecutions the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment, a speedy public trial, by an impartial jury of the county or district in which the offense was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property but by due process of law.

SEC. 8. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished but by virtue of a law established and promulgated prior to the offense, and legally applied.

SEC. 9. That no person shall, for any indictable offense, be proceeded against criminally, by information; except in cases

arising in the militia and volunteer forces when in actual service, or, by leave of the court, for misfeasance, misdemeanor, extortion and oppression in office, otherwise than is provided in this Constitution; *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may, by law, dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace, or such other inferior courts as may be by law established.

SEC. 10. That no person shall, for the same offense, be twice put in jeopardy of life or limb.

SEC. 11. That no person shall be debarred from prosecuting or defending, before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

SEC. 12. That the right of trial by jury shall remain inviolate.

SEC. 13. That in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts, under the direction of the court.

SEC. 14. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.

SEC. 15. That the State of Alabama shall never be made defendant in any court of law or equity.

SEC. 16. That excessive fines shall not be imposed, nor cruel or unusual punishments inflicted.

SEC. 17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident, or the presumption great; and that excessive bail shall not, in any case, be required.

SEC. 18. That the privilege of the writ of *habeas corpus* shall not be suspended by the authorities of this State.

SEC. 19. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 20. That no person shall be attainted of treason by the general assembly; and that no conviction shall work corruption of blood, or forfeiture of estate.

SEC. 21. That no person shall be imprisoned for debt.

SEC. 22. That no power of suspending laws shall be exercised, except by the general assembly.

SEC. 23. That no *ex post facto* law, or any law impairing the obligation of contracts, or making any irrevocable grants a special privileges or immunities, shall be passed by the general assembly.

SEC. 24. That the exercise of the right of eminent domain shall never be abridged, nor so construed as to prevent the general assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as individuals. But private property shall not be taken or applied for public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; *Provided, however,* That the general assembly may, by law, secure to persons or corporations the right of way over the lands of other persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved; but just compensation shall, in all cases, be first made to the owner; *And provided,* That the right of eminent domain shall not be so construed as to allow taxation or forced subscriptions for the benefit of railroads or any other kind of corporations other than municipal, or for the benefit of any individual or association.

SEC. 25. That all navigable waters shall remain forever public highways, free to the citizens of the State, and of the United States, without tax, impost, or toll; and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by law.

SEC. 26. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

SEC. 27. That every citizen has a right to bear arms in defense of himself and the State.

SEC. 28. That no standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 29. That 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 to be prescribed by law.

SEC. 30. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

SEC. 31. That immigration shall be encouraged; emigration shall not be prohibited; and that no citizen shall be exiled.

SEC. 32. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

SEC. 33. That no form of slavery shall exist in this State; and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

SEC. 34. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or other improper conduct.

SEC. 35. The people of this State accept as final the established fact, that from the Federal Union there can be no secession of any State.

SEC. 36. Foreigners who are, or may hereafter become, *bona fide* residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.

SEC. 37. That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property; and when the government assumes other functions it is usurpation and oppression.

SEC. 38. No educational or property qualification for suffrage or office, nor any restraint upon the same on account of race, color, or previous condition of servitude shall be made by law.

SEC. 39. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II.

STATE AND COUNTY BOUNDARIES.

SECTION 1. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east, to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west, along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this State, as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river; thence up the said river to the beginning.

SEC. 2. The boundaries of the several counties of this State, as heretofore established by law, are hereby ratified and confirmed. The general assembly may, by a vote of two-thirds of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote; but no new counties shall be hereafter formed of less extent than six hundred square miles; and no existing county shall be reduced to less extent than six hundred square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative, under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

SECTION 1. The powers of the Government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to-wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of 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 IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The style of the laws of this State shall be: "Be it enacted by the General Assembly of Alabama." Each law shall contain but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

SEC. 3. Senators and representatives shall be elected by the qualified electors on the first Monday in August, eighteen hundred and seventy-six, and one-half of the senators and all the representatives shall be elected every two years thereafter, unless the general assembly shall change the time of holding elections. The terms of the office of the senators shall be four years and that of the representatives two years, commencing on the day after the general election, except as otherwise provided in this Constitution.

SEC. 4. Senators shall be at least twenty-seven years of age, and representatives twenty-one years of age; they shall have been citizens and inhabitants of this State for three years, and inhabitants of their respective counties or districts one year next before their election, if such county or district shall have been so long established, but if not, then of the county or district from which the same shall have been taken; and they shall reside in their respective counties or districts during their terms of service.

SEC. 5. The general assembly shall meet biennially, at the capitol, in the senate chamber and in the hall of the house of representatives (except in cases of destruction of the capitol, or epidemics, when the governor may convene them at such place in

the State as he may deem best), on the day specified in this Constitution, or on such other day as may be prescribed by law, and shall not remain in session longer than sixty days at the first session held under this Constitution, nor longer than fifty days at any subsequent session.

SEC. 6. The pay of the members of the general assembly shall be four dollars per day, and ten cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route traveled.

SEC. 7. The general assembly shall consist of not more than thirty-three senators, and not more than one hundred members of the house of representatives, to be apportioned among the several districts and counties as prescribed in this Constitution.

SEC. 8. The senate, at the beginning of each regular session, and at such other times as may be necessary, shall elect one of its members president thereof, and the house of representatives, at the beginning of each regular session, shall elect one of its members as speaker, and the president of the senate and the speaker of the house of representatives shall hold their offices respectively until their successors are elected and qualified. Each house shall choose its own officers, and shall judge of the election, returns and qualifications of its members.

SEC. 9. At the general election in the year eighteen hundred and seventy-six, senators shall be elected in the even-numbered districts to serve for two years, and in the odd-numbered districts to serve for four years, so that hereafter one-half of the senators may be chosen biennially. Members of the house of representatives shall be elected at the general election every second year. The time of service of senators and representatives shall begin on the day after their election, except the terms of those elected in the year eighteen hundred and seventy-six, which shall not begin until the term of the present members shall have expired. Whenever a vacancy shall occur in either house, the governor for the time being shall issue a writ of election to fill such vacancy for the remainder of the term.

SEC. 10. 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. 11. Each house shall have power to determine the rules of

its proceedings, and to punish its members, or other persons, for contempt or disorderly behavior in its presence; to enforce obedience to its process; to protect its members against violence, or offers of bribes or corrupt solicitations; and, with the concurrence of two-thirds of either house, to expel a member, but not a second time for the same cause; and shall have all the powers necessary for the legislature of a free State.

SEC. 12. A member of either house expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

SEC. 13. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals.

SEC. 14. Members of the general assembly shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 15. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 17. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

SEC. 18. No person hereafter convicted of embezzlement of the

public money, bribery, perjury, or other infamous crime, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this state.

SEC. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 20. No bill shall become a law until it shall have been referred to a committee of each house and returned therefrom.

SEC. 21. Every bill shall be read on three different days in each house; and no bill shall become a law unless, on its final passage, it be read at length, and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journals, and a majority of each house be recorded thereon as voting in its favor, except as otherwise provided in this Constitution.

SEC. 22. No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority thereof, taken by yeas and nays, and the names of those voting for and against recorded upon the journals; and reports of committees of conference shall in like manner be adopted in each house.

SEC. 23. No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are or can be provided for by a general law, or where the relief sought can be given by any court of this State; nor shall the operation of any general law be suspended by the general assembly for the benefit of any individual, corporation, or association.

SEC. 24. No local or special law shall be passed on a subject which cannot be provided for by a general law, unless notice of the intention to apply therefor shall have been published in the locality where the matter or things to be affected may be situated; which notice shall be at least twenty days prior to the introduction into the general assembly of such bill, and the evidence of such notice having been given shall be exhibited to the general assembly before such bill shall be passed; *Provided*, That the provisions of this Constitution, as to special or local laws, shall not apply to public or educational institutions of or in this State, nor to industrial, mining, immigration, or manufacturing corporations or interests, or corporations for constructing canals, or improving navigable rivers or harbors of this State.

SEC. 25. The general assembly shall pass general laws, under

which local and private interests shall be provided for and protected.

SEC. 26. The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State; and all acts, or parts of acts, heretofore passed by the general assembly of this State, authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

SEC. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after the titles have been publicly read immediately before signing, and the fact of signing shall be entered on the journal.

SEC. 28. The general assembly shall prescribe by law the number, duties, and compensation of the officers and employés of each house; and no payment shall be made from the State treasury, or be in any way authorized to any person, except to an acting officer or employé, elected or appointed in pursuance of law.

SEC. 29. No bill shall be passed giving any extra compensation to any public officer, servant or employé, agent or contractor, after the services shall have been rendered, or contract made; nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law.

SEC. 30. All stationery, printing, paper, and fuel used in the legislative and other departments of government, shall be furnished, and the printing, binding, and distribution of laws, journals, department reports, and all other printing and binding, and repairing and furnishing the halls and rooms used for the meetings of the general assembly, and its committees, shall be performed under contract, to be given to the lowest responsible bidder below a maximum price, and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the governor, State auditor, and State treasurer.

SEC. 31. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills.

SEC. 32. The general appropriation bill shall embrace nothing

but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State, interest on the public debt, and for the public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 33. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof; and a regular statement and account of receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

SEC. 34. No appropriation shall be made to any charitable or educational institution not under the absolute control of the State, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each house.

SEC. 35. No act of the general assembly shall authorize the investment of any trust fund by executors, administrators, guardians, and other trustees, in the bonds or stock of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

SEC. 36. The power to change the venue, in civil and criminal causes, is vested in the courts, to be exercised in such manner as shall be provided by law.

SEC. 37. When the general assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.

SEC. 38. No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture, or commodity; but any county or municipality may appoint such officers, when authorized by law.

SEC. 39. No act of the general assembly changing the seat of government of the State shall become a law until the same shall have been submitted to the qualified electors of the State at a general election, and approved by a majority of such electors voting on the same; and such act shall specify the proposed new location.

SEC. 40. A member of the general assembly, who shall corruptly solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment,

reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same; or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby; or who shall solicit or demand any such money or other advantage, matter or thing aforesaid, for another, as the consideration of his vote or official influence, or for withholding the same; or shall give or withhold his vote or influence, in consideration of the payment or promise of such money, advantage, matter, or thing, to another, shall be guilty of bribery within the meaning of this Constitution, and shall incur the disabilities provided thereby for such offense, and such additional punishment as is, or shall be provided by law.

SEC. 41. Any person who shall, directly or indirectly, offer, give, or promise any money or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer, or member of the general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 42. The offense of corrupt solicitation of members of the general assembly, or of public officers of this State, or of any municipal division thereof, and any occupation or practice of solicitation of such member or officers, to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment.

SEC. 43. A member of the general assembly, who has a personal or private interest in any measure or bill, proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 44. In all elections by the general assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 45. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

SEC. 46. It shall be the duty of the general assembly, at its first session after the ratification of this Constitution, and within every subsequent period of ten years, to make provision by law

for the revision, digesting and promulgation of the public statutes of this State of a general nature, both civil and criminal.

SEC. 47. The general assembly shall pass such penal laws as they may deem expedient to suppress the evil practice of dueling.

SEC. 48. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 49. It shall be the duty of the general assembly to require the several counties of this State to make adequate provision for the maintenance of the poor.

SEC. 50. The general assembly shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

SEC. 51. In the event of annexation of any foreign territory to this State, the general assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this Constitution to the contrary notwithstanding.

SEC. 52. The general assembly shall not tax the property, real and personal, of the State, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town, to the extent of one acre, nor lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; nor such property, real or personal, to an extent not exceeding twenty-five thousand dollars in value, as may be used exclusively for agricultural or horticultural associations of a public character.

SEC. 53. The general assembly shall by law prescribe such rules and regulations as may be necessary to ascertain the value of personal and real property exempted from sale under legal process by this Constitution, and to secure the same to the claimant thereof as selected.

SEC. 54. The State shall not engage in works of internal improvement, nor lend money or its credit in aid of such; nor shall the State be interested in any private or corporate enterprise, or lend money or its credit to any individual, association, or corporation.

SEC. 55. The general assembly shall have no power to authorize any county, city, town, or other subdivision of this State, to lend its credit, or to grant public money or thing of value, in aid of, or to any individual, association, or corporation whatsoever, or to become a stockholder in any such corporation, association, or company, by issuing bonds, or otherwise.

SEC. 56. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the general assembly shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this State.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, secretary of state, state treasurer, state auditor, attorney-general, and superintendent of education, and a sheriff for each county.

SEC. 2. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Alabama."

SEC. 3. The governor, secretary of state, state treasurer, state auditor, and attorney-general shall be elected by the qualified electors of this State, at the same time and places appointed for the election of members of the general assembly.

SEC. 4. The returns of every election for governor, secretary of state, state auditor, state treasurer, and attorney-general shall be sealed up and transmitted by the returning officers to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session to which said returns shall be made, open and publish them in the presence of both houses of the general assembly in joint convention. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes for the same office, the general assembly, by joint vote, without delay, shall choose one of said persons for said office. Contested elections for governor, secretary of state, state auditor, state treasurer, and attorney-general shall be determined by both houses of the general assembly in such manner as may be prescribed by law.

SEC. 5. The governor, secretary of state, state treasurer, state auditor, and attorney-general shall hold their respective offices for the term of two years from the time of their installation in office, and until their successors shall be elected and qualified.

SEC. 6. The governor shall be at least thirty years of age when elected, and shall have been a citizen of the United States ten years, and a resident citizen of this State at least seven years next before the day of his election.

SEC. 7. The governor, secretary of state, state treasurer, state auditor, and attorney-general shall reside at the seat of government of this State during the time they continue in office, except in case of epidemics; and they shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected.

SEC. 8. The governor shall take care that the laws be faithfully executed.

SEC. 9. The governor may require information in writing, under oath, from the officers of the executive department on any subject relating to the duties of their respective offices; and he may, at any time, require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices and institutions; and any such officer or manager who makes a false report, shall be guilty of perjury, and punished accordingly.

SEC. 10. The governor may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous from an enemy, or from infectious or contagious diseases; and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

SEC. 11. The governor shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient; and, at the commencement of each session of the general assembly, and at the close of his term of office, give information, by written message, of the condition of the State; and he shall account to the general assembly, as may be prescribed by

law, for all moneys received and paid out by him, from any funds subject to his order, with the vouchers therefor; and he shall, at the commencement of each regular session, present to the general assembly estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 12. The governor shall have power to remit fines and forfeitures, under such rules and regulations as may be prescribed by law, and after conviction, to grant reprieves, commutation of sentence, and pardons (except in cases of treason and impeachment); but pardons, in cases of murder, arson, burglary, rape, assault with intent to commit rape, perjury, forgery, bribery, and larceny, shall not relieve from civil and political disability, unless specifically expressed in the pardon. Upon conviction of treason, the governor may suspend the execution of the sentence, and report the same to the general assembly at the next regular session, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, with his reasons therefor, stating the name and crime of the convict, the sentence, its date, and the date of the reprieve, commutation, or pardon.

SEC. 13. Every bill which shall have passed both houses of the general assembly, shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large upon the journals, and the house to which such bill shall be returned shall proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall vote for the passage of such bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law, but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjourn-

ment, prevent its return, in which case it shall not be a law. And every order, vote, or resolution, to which the concurrence of both houses may be necessary (except questions of adjournment, and of bringing on elections by the two houses, and of amending this Constitution), shall be presented to the governor; and, before the same shall take effect, be approved by him, or, being disapproved, shall be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

SEC. 14. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of bill approved shall be the law, and the item or items of appropriations disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto; and he shall, in writing, state specifically the item or items he disapproves.

SEC. 15. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, absence from the State, or other disability, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time appointed for the election of governor shall arrive, or until the governor who is absent, or impeached, shall return or be acquitted, or other disability be removed; and if during such vacancy in the office of governor the president of the senate shall be impeached, removed from office, refuse to qualify, die, resign, be absent from the State, or be under any other disability, the speaker of the house of representatives shall, in like manner, administer the government. If the governor shall be absent from the State over twenty days, the secretary of state shall notify the president of the senate, who shall enter upon the duties of governor; and if the governor and president of the senate shall both be absent from the State over twenty days, the secretary of state shall notify the speaker of the house of representatives, and in such case he shall enter upon and discharge the duties of governor until the return of the governor, or president of the senate.

SEC. 16. The president of the senate and speaker of the house of representatives shall, during the time they respectively administer the government, receive the same compensation which the governor would have received if he had been employed in the

duties of his office; *Provided*, That if the general assembly shall be in session during such absence, they, or either of them, shall receive no compensation as members of the general assembly while acting as governor.

SEC. 17. No person shall, at one and the same time, hold the office of governor of this State, and any other office, civil or military, either under this State, the United States, or any other State or government, except as otherwise provided in this Constitution.

SEC. 18. The governor shall be commander-in-chief of the militia and volunteer forces of this State, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection, and repel invasion; but he need not command in person unless directed to do so by a resolution of the general assembly; and when acting in the service of the United States he shall appoint his staff, and the general assembly shall fix his rank.

SEC. 19. No person shall be eligible to the office of secretary of state, state treasurer, state auditor, or attorney-general, unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least twenty-five years old when elected.

SEC. 20. There shall be a great seal of the State, which shall be used officially by the governor; and the seal now in use shall continue to be used until another shall have been adopted by the general assembly. The said seal shall be called the "Great Seal of the State of Alabama."

SEC. 21. The secretary of state shall be the custodian of the seal of the State, and shall authenticate therewith all official acts of the governor, his approval of laws and resolutions excepted. He shall keep a register of the official acts of the governor, and when necessary, shall attest them, and lay copies of the same, together with copies of all papers relative thereto, before either house of the general assembly, whenever required to do so, and shall perform such other duties as may be prescribed by law.

SEC. 22. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the great seal, and signed by the governor, and countersigned by the secretary of state.

SEC. 23. Should the office of secretary of state, state treasurer, state auditor, attorney-general, or superintendent of education become vacant, for any of the causes specified in section fifteen of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified.

SEC. 24. The state treasurer, state auditor, and attorney-general shall perform such duties as may be prescribed by law. The state treasurer and state auditor shall, every year, at a time the general assembly may fix, make a full and complete report to the governor, showing all receipts and disbursements of revenue of every character, all claims audited and paid by the State, by items, and all taxes and revenue collected and paid into the treasury, and from what sources; and they shall make reports oftener on any matter pertaining to their office, if required by the governor or the general assembly.

SEC. 25. The state auditor, state treasurer, and secretary of state shall not, after the expiration of the terms of those now in office, receive to their use any fees, costs, perquisites of office, or compensation, other than their salaries as prescribed by law; and all fees that may be payable by law, for any service performed by either of such officers, shall be paid in advance into the state treasury.

SEC. 26. A sheriff shall be elected in each county, by the qualified electors thereof, who shall hold his office for the term of four years, unless sooner removed, and shall be ineligible to such office as his own successor; *Provided*, That sheriffs elected on the first Monday in August, 1877, or at such other time as may be prescribed by law for the election in that year, shall hold their offices for the term of three years, and until their successors shall be elected and qualified. In the year 1880, at the general election for members to the general assembly, sheriffs shall be elected for four years, as herein provided. Vacancies in the office of sheriff shall be filled by the governor, as in other cases; and the person appointed shall continue in office until the next general election in the county for sheriff, as provided by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the senate, sitting as a court of impeachment, a supreme court,

circuit courts, chancery courts, courts of probate, such inferior courts of law and equity, to consist of not more than five members, as the general assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

SEC. 2. Except in cases otherwise directed in the Constitution, the supreme court shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this Constitution, as may from time to time be prescribed by, law; *Provided*, That said court shall have power to issue writs of injunction, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

SEC. 3. The supreme court shall be held at the seat of government, but if that shall have become dangerous from any cause, it may adjourn to a different place.

SEC. 4. The State shall be divided by the general assembly into convenient circuits, not to exceed eight in number, unless increased by a vote of two-thirds of the members of each house of the general assembly, and no circuit shall contain less than three nor more than twelve counties; and for each circuit there shall be chosen a judge, who shall, for one year next preceding his election, and during his continuance in office, reside in the circuit for which he is elected.

SEC. 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within the State, not otherwise excepted in the Constitution; but in civil cases only when the matter or sum in controversy exceeds fifty dollars.

SEC. 6. A circuit court shall be held in each county in the State at least twice in every year, and the judges of the several circuits may hold courts for each other, when they deem it expedient, and shall do so when directed by law; *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction returnable into courts of chancery.

SEC. 7. The general assembly shall have power to establish a court or courts of chancery, with original and appellate jurisdiction. The State shall be divided by the general assembly into convenient chancery divisions, not exceeding three in number, unless an increase shall be made by a vote of two-thirds of each

house of the general assembly, taken by yeas and nays and entered upon the journals; and the divisions shall be divided into districts; and for each division there shall be a chancellor, who shall, at the time of his election or appointment, and during his continuance in office, reside in the division for which he shall have been elected or appointed.

SEC. 8. A chancery court shall be held in each district, at a place to be fixed by law, at least once in each year; and the chancellors may hold courts for each other, when they deem it necessary.

SEC. 9. The general assembly shall have power to establish in each county within the State a court of probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business.

SEC. 10. The judges of the supreme court, circuit courts, and chancellors shall, at stated times, receive for their services a compensation, which shall not be diminished during their official terms, but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under this State or the United States, or any other power, during the term for which they have been elected.

SEC. 11. The supreme court shall consist of one chief justice and such number of associate justices as may be prescribed by law.

SEC. 12. The chief justice and associate justices of the supreme court, judges of the circuit courts, probate courts, and chancellors shall be elected by the qualified electors of the State, circuits, counties, and chancery divisions, for which such courts may be established, at such times as may be prescribed by law.

SEC. 13. The judges of such inferior courts of law and equity as may be by law established, shall be elected or appointed in such mode as the general assembly may prescribe.

SEC. 14. The judges of the supreme court, circuit courts, and chancellors, and the judges of city courts shall have been citizens of the United States and of this State for five years next preceding their election or appointment, and shall be not less than twenty-five years of age, and learned in the law.

SEC. 15. The chief justice and associate justices of the supreme court, circuit judges, chancellors, and probate judges shall hold office for the term of six years, and until their successors are

elected or appointed and qualified; and the right of such judges and chancellors to hold their offices for the full time hereby prescribed shall not be affected by any change hereafter made by law in any circuit, division, or county in the mode or time of election.

SEC. 16. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; the judges of the circuit courts, within their respective circuits, and the judges of the inferior courts within their respective jurisdictions, shall, in like manner, be conservators of the peace.

SEC. 17. Vacancies in the office of any of the judges or chancellors of this State shall be filled by appointment by the governor; and such appointee shall hold his office for the unexpired term, and until his successor is elected or appointed and qualified.

SEC. 18. If in any case, civil or criminal, pending in any circuit, chancery, or city court in this State, the presiding judge or chancellor shall, for any legal cause, be incompetent to try, hear, or render judgment in such cause, the parties or their attorneys of record, if it be a civil case, or the solicitor or other prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person practising in the court and learned in the law, to act as special judge or chancellor, to sit as a court, and to hear, decide, and render judgment in the same manner and to the same effect as a judge of the circuit or city court, or chancellor sitting as a court might do in such case. If the case be a civil one, and the parties or their attorneys of record do not agree, or if the case be a criminal one, and the prosecuting officer and the defendant or defendants do not agree upon a special judge or chancellor, or if either party in a civil cause is not represented in court, the clerk of the circuit or city court, or register in chancery, of the court in which said cause is pending, shall appoint the special judge or chancellor, who shall preside, try, and render judgment as in this section provided.

SEC. 19. The general assembly shall have power to provide for the holding of circuit and chancery courts in this State, when the judges or chancellors thereof fail to attend regular terms.

SEC. 20. No judge of any court of record in this State shall practise law in any of the courts of this State or of the United States.

SEC. 21. Registers in chancery shall be appointed by the chancellors of the divisions, and shall hold office during the term of

the chancellor making such appointment; and such registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law.

SEC. 22. A clerk of the supreme court shall be appointed by the judges thereof, and shall hold office during the term of the judges making the appointment; and clerks of such inferior courts as may be established by law shall be appointed by the judges thereof, and shall hold office during the term of the judge making such appointment.

SEC. 23. Clerks of the circuit court shall be elected by the qualified electors in each county for the term of six years. Vacancies in such office shall be filled by the governor for the unexpired term.

SEC. 24. The clerk of the supreme court and registers in chancery may be removed from office by the judges of the supreme court and chancellors respectively, for cause, to be entered at length upon the records of the court.

SEC. 25. A solicitor for each judicial circuit shall be elected by joint ballot of the general assembly, who shall be learned in the law, and who shall, at the time of his election, and during his continuance in office, reside in the circuit for which he is chosen, and whose term of office shall be for six years; *Provided*, That the general assembly, at the first session thereof after the ratification of this Constitution, shall, by joint ballot, elect a solicitor for each judicial circuit of the State, whose term of office shall begin on Tuesday after the first Monday in November, eighteen hundred and seventy-six, and continue for four years; *And provided*, That the general assembly may, when necessary, provide for the election or appointment of county solicitors.

SEC. 26. There shall be elected by the qualified electors of each precinct of the counties not exceeding two justices of the peace and one constable. Such justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery, and ejectment. In all cases tried before such justices the right of appeal, without prepayment of costs, shall be secured by law; *Provided*, That the governor may appoint one notary public for each election precinct in counties, and one for each ward in cities of over five thousand inhabitants, who, in addition to the powers of notary, shall have and exercise the same jurisdiction as

justices of the peace within the precincts and wards for which they are respectively appointed; *And provided*, That notaries public without such jurisdiction may be appointed. The term of office of such justices and notaries public shall be prescribed by law.

SEC. 27. An attorney-general shall be elected by the qualified electors of the State at the same time and places of election of members of the general assembly, whose term of office shall be for two years, and until his successor is elected and qualified. After his election he shall reside at the seat of government, and shall be the law officer of the State, and shall perform such duties as may be required of him by law.

SEC. 28. The style of all process shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the same, and shall conclude, "Against the peace and dignity of the State."

ARTICLE VII.

IMPEACHMENTS.

SECTION 1. The governor, secretary of state, auditor, treasurer, attorney-general, superintendent of education, and judges of the supreme court may be removed from office for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offence involving moral turpitude while in office, or committed under color thereof, or connected therewith, by the senate, sitting as a court for that purpose, under oath or affirmation, on articles or charges preferred by the house of representatives.

SEC. 2. The chancellors, judges of the circuit courts, judges of the probate courts, solicitors of the circuits, and judges of the inferior courts, from which an appeal may be taken directly to the supreme court, may be removed from office for any of the causes specified in the preceding section, by the supreme court, under such regulations as may be prescribed by law.

SEC. 3. The sheriffs, clerks of the circuit, city, or criminal courts, tax collectors, tax assessors, county treasurers, coroners, justices of the peace, notaries public, constables, and all other county officers, mayors, and intendants of incorporated cities and towns in this State, may be removed from office for any of the causes specified in section one of this article, by the circuit, city, or criminal court of the county in which such officers hold their

office, under such regulations as may be prescribed by law; *Provided*, That the right of trial by jury and appeal in such cases be secured.

SEC. 4. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office, and disqualification from holding office under the authority of this State, for the term for which he was elected or appointed; but the accused shall be liable to indictment, trial, and punishment, as prescribed by law.

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

SECTION 1. Every male citizen of the United States, and every male person of foreign birth who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is twenty-one years old, or upwards, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people, except as hereinafter provided:

First. He shall have resided in the State at least one year immediately preceding the election at which he offers to vote.

Second. He shall have resided in the county for three months, and in the precinct or ward for thirty days immediately preceding the election at which he offers to vote; *Provided*, That the general assembly may prescribe a longer or shorter residence in any precinct in any county, or in any ward in any incorporated city or town, having a population of more than five thousand inhabitants, but in no case to exceed three months; *And provided*, That no soldier, sailor, or marine, in the military or naval service of the United States, shall acquire a residence by being stationed in this State.

SEC. 2. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be *viva voce*.

SEC. 3. The following classes shall not be permitted to register, vote, or hold office.

First. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in the penitentiary.

Second. Those who are idiots or insane.

SEC. 4. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

SEC. 5. The general assembly shall pass laws, not inconsistent with this Constitution, to regulate and govern elections in this State, and all such laws shall be uniform throughout the State. The general assembly may, when necessary, provide by law for the registration of electors throughout the State, or in any incorporated city or town thereof, and when it is so provided, no person shall vote at any election unless he shall have registered as required by law.

SEC. 6. It shall be the duty of the general assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

SEC. 7. Returns of elections for all civil officers who are to be commissioned by the governor, except secretary of state, state auditor, state treasurer and attorney-general, and for members of the general assembly, shall be made to the secretary of state.

ARTICLE IX.

REPRESENTATION.

SECTION 1. The whole number of senators shall be not less than one-fourth or more than one-third the whole number of representatives.

SEC. 2. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the general assembly among the several counties of the State, according to the number of inhabitants in them respectively, as ascertained by the decennial census of the United States for the year eighteen hundred and eighty; which apportionment, when made, shall not be subject to alteration until the first session of the general assembly after the next decennial census of the United States shall have been taken.

SEC. 3. It shall be the duty of the general assembly, at its first session after the taking of the decennial census of the United States in the year eighteen hundred and eighty, and after each subsequent decennial census, to fix by law the number of repre-

sentatives, and apportion them among the several counties of the State; *Provided*, That each county shall be entitled to at least one representative.

SEC. 4. It shall be the duty of the general assembly at its first session after the taking of the decennial census of the United States in the year eighteen hundred and eighty, and after each subsequent decennial census, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one senator, and no more; and which districts, when formed, shall not be changed until the next apportioning session of the general assembly after the next decennial census of the United States shall have been taken. No county shall be divided between two districts, and no district shall be made of two or more counties not contiguous to each other.

SEC. 5. Should the decennial census of the United States, from any cause, not be taken, or if, when taken, the same as to this State is not full and satisfactory, the general assembly shall have power, at its first session after the time shall have elapsed for the taking of said census, to provide for an enumeration of all the inhabitants of this State, and once in each ten years thereafter, upon which it shall be the duty of the general assembly to make the apportionment of representatives and senators as provided for in this article.

SEC. 6. Until the general assembly shall make an apportionment of representatives among the several counties, after the first decennial census of the United States, as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Calhoun, Chilton, Cherokee, Choctaw, Clark, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Dale, DeKalb, Elmore, Etowah, Escambia, Fayette, Franklin, Geneva, Henry, Lauderdale, Marion, Morgan, Monroe, Marshall, Randolph, Sanford, Shelby, St. Clair, Walker, Washington, and Winston shall each have one representative; the counties of Barbour, Bullock, Butler, Chambers, Greene, Hale, Jackson, Jefferson, Limestone, Lawrence, Lowndes, Lee, Macon, Marengo, Perry, Pickens, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuskaloosa, and Wilcox shall have each two representatives; the county of Madison shall have three representatives; the counties of Dallas and Montgomery shall have,

each, four representatives; and the county of Mobile shall have five representatives.

SEC. 7. Until the general assembly shall divide the State into senatorial districts, as herein provided, the senatorial districts shall be as follows:

First district, Lauderdale and Limestone; second district, Colbert and Lawrence; third district, Morgan, Winston, and Blount; fourth district, Madison; fifth district, Marshall, Jackson, and DeKalb; sixth district, Cherokee, Etowah, and St. Clair; seventh district, Calhoun and Cleburne; eighth district, Talladega and Clay; ninth district, Randolph and Chambers; tenth district, Macon and Tallapoosa; eleventh district, Bibb and Tuscaloosa; twelfth district, Franklin, Marion, Fayette, and Sanford; thirteenth district, Walker, Jefferson, and Shelby; fourteenth district, Greene and Pickens; fifteenth district, Coosa, Elmore, and Chilton; sixteenth district, Lowndes and Autauga; seventeenth district, Butler and Conecuh; eighteenth district, Perry; nineteenth district, Choctaw, Clark, and Washington; twentieth district, Marengo; twenty-first district, Monroe, Escambia, and Baldwin; twenty-second district, Wilcox; twenty-third district, Henry, Coffee, Dale, and Geneva; twenty-fourth district, Barbour; twenty-fifth district, Pike, Crenshaw, and Covington; twenty-sixth district, Bullock; twenty-seventh district, Lee; twenty-eighth district, Montgomery; twenty-ninth district, Russell; thirtieth district, Dallas; thirty-first district, Sumter; thirty-second district, Hale; thirty-third district, Mobile.

ARTICLE X.

EXEMPTED PROPERTY.

SECTION 1. The personal property of any resident of this State, to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other process of any court, issued for the collection of any debt contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution.

SEC. 2. Every homestead, not exceeding eighty acres, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town, or village, or in lieu thereof, at the option of the owner, any lot in the city, town, or village, with

the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempted from sale on execution, or any other process from a court, for any debt contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted since the thirteenth day of July, one thousand eight hundred and sixty-eight, or after the ratification of this Constitution, in all cases, during the minority of the children.

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, such homestead shall be exempt, and the rents and profits thereof shall enure to her benefit.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterwards be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements of her husband, and may be devised or bequeathed by her, the same as if she were a *femme sole*.

SEC. 7. The right of exemptions hereinbefore secured may be waived by an instrument in writing, and when such waiver relates to realty, the instrument must be signed by both the husband and the wife, and attested by one witness.

ARTICLE XI.

TAXATION.

SECTION 1. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property; *Provided, however,* The general assembly may levy a poll-tax, not to

exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public school fund in the county so paying the same.

SEC. 2. No power to levy taxes shall be delegated to individuals or private corporations.

SEC. 3. After the ratification of this Constitution, no new debt shall be created against, or incurred by this State, or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the general assembly, and the vote shall be taken by yeas and nays and entered on the journals; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; *Provided*, The governor may be authorized to negotiate temporary loans, never to exceed one hundred thousand dollars, to meet deficiencies in the treasury; and until the same is paid, no new loan shall be negotiated; *Provided further*, That this section shall not be so construed as to prevent the issuance of bonds in adjustment of existing State indebtedness.

SEC. 4. The general assembly shall not have the power to levy, in any one year, a greater rate of taxation than three-fourths of one per centum on the value of the taxable property within this State.

SEC. 5. No county in this State shall be authorized to levy a larger rate of taxation, in any one year, on the value of the taxable property therein, than one-half of one per centum; *Provided*, That to pay debts existing at the ratification of this Constitution, an additional rate of one-fourth of one per centum may be levied and collected, which shall be exclusively appropriated to the payment of such debts, or the interest thereon; *Provided further*, That to pay any debt or liability now existing against any county, incurred for the erection of the necessary public buildings or other ordinary county purposes, or that may hereafter be created for the erection of necessary public buildings or bridges, any county may levy and collect such special taxes as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same shall have been levied and collected.

SEC. 6. The property of private corporations, associations, and individuals of this State shall forever be taxed at the same rate;

Provided, This section shall not apply to institutions or enterprises devoted exclusively to religious, educational, or charitable purposes.

SEC. 7. No city, town, or other municipal corporation, other than provided for in this article, shall levy or collect a larger rate of taxation, in any one year, on the property thereof, than one-half of one per centum of the value of such property, as assessed for State taxation during the preceding year; *Provided*, That for the payment of debts existing at the time of the ratification of this Constitution, and the interest thereon, an additional rate of one per centum may be collected, to be applied exclusively to such indebtedness; *And provided*, This section shall not apply to the city of Mobile, which city may, until the first day of January, one thousand eight hundred and seventy-nine, levy a tax not to exceed the rate of one per centum, and from and after that time a tax not to exceed the rate of three-fourths of one per centum, to pay the expenses of the city government, and may also, until the first day of January, one thousand eight hundred and seventy-nine, levy a tax not to exceed the rate of one per centum, and from and after that time, a tax not to exceed the rate of three-fourths of one per centum, to pay the existing indebtedness of said city, and the interest thereon.

SEC. 8. At the first session of the general assembly after the ratification of this Constitution, the salaries of the following officers shall be reduced at least twenty-five per centum, viz.: Governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of education, judges of the supreme and circuit courts, and chancellors; and after said reduction, the general assembly shall not have the power to increase the same, except by a vote of a majority of all the members elected to each house, taken by yeas and nays, and entered on the journals; *Provided*, This section shall not apply to any of said officers now in office.

SEC. 9. The general assembly shall not have the power to require the counties or other municipal corporations to pay any charges which are now payable out of the State treasury.

ARTICLE XII.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen years and forty-five years, who are

citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of the State.

SEC. 2. The general assembly, in providing for the organization, equipment, and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the governor.

SEC. 4. Volunteer organizations of infantry, cavalry, and artillery may be formed in such manner, and under such restrictions, and with such privileges, as may be provided by law.

SEC. 5. The militia and volunteer forces shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at musters, parades, and elections, and in going to and returning from the same.

SEC. 6. The governor shall, except as otherwise provided herein, be commander-in-chief of the militia and volunteer forces of the State, except when in the service of the United States, and shall, with the advice and consent of the senate, appoint all general officers, whose terms of office shall be for four years. The governor, the generals, and regimental and battalion commanders shall appoint their own staffs, as may be provided by law.

SEC. 7. The general assembly shall provide for the safe-keeping of the arms, ammunition, and accoutrements, military records, banners, and relics of the State.

SEC. 8. The officers and men of the militia and volunteer forces shall not be entitled to, or receive any pay, rations, or emoluments, when not in active service.

ARTICLE XIII.

EDUCATION.

SECTION 1. The general assembly shall establish, organize, and maintain a system of public schools throughout the State, for the equal benefit of the children thereof between the ages of seven and twenty-one years; but separate schools shall be provided for the children of citizens of African descent.

SEC. 2. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or entrusted to this State, or given by the United States, for educational purposes, shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 3. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

SEC. 4. The general assembly shall also provide for the levying and collection of an annual poll-tax, not to exceed one dollar and fifty cents on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

SEC. 5. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in sections three and four of this article, with such other moneys, to be not less than one hundred thousand dollars per annum, as the general assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools; and it shall be the duty of the general assembly to increase, from time to time, the public school fund, as the condition of the treasury and the resources of the State will admit.

SEC. 6. Not more than four per cent. of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools: *Provided*, That the general assembly may, by a vote of two-thirds of each house, suspend the operation of this section.

SEC. 7. The supervision of the public schools shall be vested in a superintendent of education, whose powers, duties, term of office, and compensation shall be fixed by law. The superintendent of education shall be elected by the qualified voters of the State in such manner, and at such time, as shall be provided by law.

SEC. 8. No money raised for the support of the public schools

of the State shall be appropriated to, or used for, the support of any sectarian or denominational school.

SEC. 9. The State University and the Agricultural and Mechanical College shall each be under the management and control of a board of trustees. The board for the university shall consist of two members from the congressional district in which the university is located, and one from each of the other congressional districts in the State. The board for the Agricultural and Mechanical College shall consist of two members from the congressional district in which the college is located, and one from each of the other congressional districts in the State. Said trustee shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office for a term of six years, and until their successors shall be appointed and qualified. After the first appointment each board shall be divided into three classes, as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those of the third class at the end of six years, from the date of appointment, so that one-third may be chosen biennially. No trustee shall receive any pay or emolument, other than his actual expenses incurred in the discharge of his duties as such. The governor shall be *ex officio* president, and the superintendent of education *ex officio* a member of each of said boards of trustees.

SEC. 10. The general assembly shall have no power to change the location of the State University, or the Agricultural and Mechanical College, as now established by law, except upon a vote of two-thirds of the members of the general assembly, taken by yeas and nays, and entered upon the journals.

SEC. 11. The provisions of this article, and of any act of the general assembly, passed in pursuance thereof, to establish, organize, and maintain a system of public schools throughout the State, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portion of the funds to which said county will be entitled for school purposes, and to make reports to the superintendent of education, as may be prescribed by law. And all special incomes and powers of taxation, as now authorized by law for the benefit of public schools in said county, shall remain undisturbed until otherwise provided

by the general assembly: *Provided*, That separate schools for each race shall always be maintained by said school authorities.

ARTICLE XIV.

CORPORATIONS.—PRIVATE CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal, manufacturing, mining, immigration, industrial, and educational purposes, or for constructing canals, or improving navigable rivers and harbors of this State, and in cases where, in the judgment of the general assembly, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

SEC. 2. All existing charters or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith, at the time of the ratification of this Constitution, shall thereafter have no validity.

SEC. 3. The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law or by contract, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

SEC. 4. No foreign corporation shall do any business in this State without having at least one known place of business and an authorized agent or agents therein; and such corporation may be sued in any county where it does business by service of process upon an agent anywhere in this State.

SEC. 5. No corporation shall engage in any business other than that expressly authorized in its charter.

SEC. 6. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general laws, nor without the consent of the persons holding the larger amount in value of stock,

first obtained at a meeting to be held after thirty days' notice is given in pursuance of law.

SEC. 7. Municipal and other corporations and individuals invested with the privilege of taking private property, for public use, shall make just compensation for the property taken, injured, or destroyed by the construction or enlargement of its works, highways or improvements, which compensation shall be paid before such taking, injury, or destruction. The general assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers, or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to law.

SEC. 8. Dues from private corporations shall be secured by such means as may be prescribed by law; but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her.

SEC. 9. No corporation shall issue preferred stock without the consent of the owners of two-thirds of the stock of said corporation.

SEC. 10. The general assembly shall have the power to alter, revoke, or amend any charter of incorporation now existing, and revocable at the ratification of this Constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of the State; in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

SEC. 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and connect the same with other lines; and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

SEC. 12. 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. 13. The term "corporation," as used in this article, shall be construed to include all joint stock companies, or any associations having any of the powers or privileges of corporations, not possessed by individuals or partnerships.

BANKS AND BANKING.

SEC. 14. The general assembly shall not have the power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

SEC. 15. No banks shall be established otherwise than under a general banking law, nor otherwise than upon a specie basis.

SEC. 16. All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payment.

SEC. 17. Holders of bank notes, and depositors who have not stipulated for interest, shall, for such notes and deposits, be entitled, in case of insolvency, to the preference of payment over all other creditors.

SEC. 18. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization (unless the general assembly shall extend the time), and promptly thereafter close its business; but shall have corporate capacity to sue and shall be liable to suit, until its affairs and liabilities are fully closed.

SEC. 19. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

SEC. 20. The State shall not be a stockholder in any bank, nor shall the credit of the State ever be given or loaned to any banking company, association, or corporation.

RAILROADS AND CANALS.

SEC. 21. All railroads and canals shall be public highways and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points in this State, and to connect, at the State line, with rail-

roads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport, each, the other's freight, passengers, and cars, loaded or empty, without delay or discrimination.

SEC. 22. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freights and passenger tariffs on railroads, canals, and rivers in this State.

SEC. 23. No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount other than as sold to the public generally, to any member of the general assembly, or to any person holding office under this State or the United States.

SEC. 24. No street passenger railway shall be constructed within the limits of any city or town, without the consent of its local authorities.

SEC. 25. No railroad, canal, or other transportation company, in existence at the time of the ratification of this Constitution, shall have the benefit of any future legislation by general or special laws, other than in execution of a trust created by law, or by contract, except on the condition of complete acceptance of all the provisions of this article.

ARTICLE XV.

OATH OF OFFICE.

SECTION 1. All members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation, to wit:

"I, ———, solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, and the Constitution of the State of Alabama, so long as I continue a citizen thereof, and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter to the best of my ability. So help me God."

Which oath may be administered by the presiding officer of either house of the general assembly, or any officer authorized by law to administer an oath.

ARTICLE XVI.

MISCELLANEOUS PROVISIONS.

SECTION 1. No person holding an office of profit under the United States, except postmasters whose annual salary does not exceed two hundred dollars, shall, during his continuance in such office, hold any office of profit under this State; nor shall any person hold two offices of profit at one and the same time under this State, except justices of the peace, constables, notaries public, and commissioners of deeds.

SEC. 2. It is made the duty of the general assembly to enact all laws necessary to give effect to the provisions of this Constitution.

ARTICLE XVII.

MODE OF AMENDING THE CONSTITUTION.

SECTION 1. The general assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this Constitution, which, having been read on three several days in each house, shall be duly published in such manner as the general assembly may direct, at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of State; and, if it shall thereupon appear that a majority of all the qualified electors of the State, who voted at such election, voted in favor of the proposed amendments, said amendments shall be valid, to all intents and purposes, as parts of this Constitution, and the result of such election shall be made known by proclamation of the governor.

SEC. 2. No convention shall hereafter be held for the purpose of altering or amending the Constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of all the electors of the State, and approved by a majority of those voting at said election.

SCHEDULE.

In order that no injury or inconvenience may arise from the alterations and amendments made by this Constitution to the

existing Constitution of this State, and to carry this Constitution into effect, it is hereby ordained and declared,—

1. That all laws in force at the ratification of this Constitution, and not inconsistent therewith, shall remain in full force, until altered or repealed by the general assembly; and all rights, actions, prosecutions, claims, and contracts of this State, counties, individuals, or bodies corporate, not inconsistent with this Constitution, shall continue to be as valid as if this Constitution had not been ratified.

2. That all bonds executed by or to any officer of this State, all recognizances, obligations, and all other instruments executed to this State, or any subdivision or municipality thereof, before the ratification of this Constitution, and all fines, taxes, penalties, and forfeitures due and owing to this State, or any subdivision, or to any municipality thereof; and all writs, suits, prosecutions, claims and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the ratification of this Constitution. All indictments which may have been found, or which may hereafter be found, for any crime or offence committed before the ratification of this Constitution, shall be proceeded upon in the same manner as if this Constitution had not been ratified.

3. That all the executive and judicial officers, and all other officers in this State, who shall have been elected at the election held in this State, on third day of November, eighteen hundred and seventy-four, or who may have been appointed since that time, and all members of the present general assembly, and all that may hereafter be elected members of the present general assembly, and all other officers holding office at the time of the ratification of this Constitution, except such as hold office under any act of the general assembly, shall continue in office, and exercise the duties thereof until their respective terms shall expire, as provided by the present Constitution and laws of this State.

4. This Constitution shall be submitted to the qualified electors of this State for ratification or rejection, as authorized and required by an act of the general assembly of this State, entitled "An act to provide for the calling of a Convention to revise and amend the Constitution of this State," approved nineteenth day of March, A. D. eighteen hundred and seventy-five.

5. If at said election the said Constitution shall be found to

have been ratified by a majority of all of the qualified electors voting at said election, the said new Constitution, so ratified, shall go into effect as the new Constitution of the State of Alabama within the time stated in the proclamation of the governor, and shall thereafter be binding and obligatory as such upon all the people of this State, according to the provisions of said act, approved nineteenth day of March, eighteen hundred and seventy-five.

6. That instead of the publication as required by section twelve of said act, the governor of the State is hereby authorized to take such steps as will give general publicity and circulation to this Constitution in as economical manner as practicable.

7. That all laws requiring an enumeration of the inhabitants of this State during the year eighteen hundred and seventy-five are hereby avoided.

8. That the board of education of this State is hereby abolished.

9. The salaries of the executive and judicial, and all other officers of this State who may be holding office at the time of the ratification of this Constitution, and the pay of the present members of the general assembly shall not be affected by the provisions of this Constitution.

LEROY POPE WALKER, *President*.

John F. Burns,
J. H. White,
Sumpter Lea,
Wm. A. Smith,
R. A. McClellan,
E. D. Willett,
Rufus W. Cobb,
John W. Inzer,
Wm. G. Little,
W. Garrett,
John Manasco,
Lewis M. Stone,
Wiley Coleman,
Andrew C. Hargrove,
Evan G. Richards,
Henry W. Laird,
Wm. J. O'Bannon,
Geo. S. Gullett,

Geo. W. Delbridge,
Andrew J. Ingle,
Frank A. Nisbet,
John Gamble,
Isaac H. Parks,
Henry C. Lea,
Joel D. Murphree,
J. B. Kelly,
J. N. Swan,
Benj. F. Weathers,
Micajah L. Davis,
J. W. Jones,
John S. Dickinson,
Wm. Burgess,
P. M. Calloway,
John P. Ralls, M. D.,
Wm. S. Mudd,
John A. Foster,

James L. Pugh,
Jos. E. P. Flournoy,
John D. Hudson,
R. O. Pickett,
Richard H. Powell,
E. A. O'Neal,
Thomas B. NeSmith,
Wm. Green,
F. W. Sykes,
E. H. Moren,
Wm. C. Oates,
Stephen C. Allgood,
Samuel J. Bolling,
Leroy Brewer,
John T. Heflin,
Julius G. Robinson,
Samuel J. Forwood,
John Green,
Robert A. Long,
Charles C. Langdon,
F. S. Lyon,
Henry A. Woolf,
Wm. M. Hames,
Thos. J. Burton,
B. F. Johnson,
Alburto Martin,

R. C. Torrey,
M. T. Akers,
Albert W. Plowman,
Wm. A. Musgrove,
James D. Meadows,
W. J. Samford,
Geo. P. Harrison, Jr.,
John D. Rather,
Cephas B. Taylor,
James Aiken,
E. A. Powell,
A. C. Gordon,
Cullen A. Battle,
Jonathan Bliss,
D. B. Booth,
S. T. Prince,
A. A. Sterritt,
H. J. Livingston,
Wm. M. Lowe,
S. S. Scott,
Charles Gibson,
Thomas H. Herndon,
Jesse E. Brown,
David S. Nowlin,
John H. Norwood,
Montgomery Gilbreath.

Attest: BENJ. H. SCREWS, *Secretary.*

APPENDIX.



GOVERNORS OF THE MISSISSIPPI TERRITORY, THE ALABAMA TERRITORY, AND THE STATE OF ALABAMA.

THE MISSISSIPPI TERRITORY.

	<i>From</i>	<i>To</i>
Winthrop Sargent of Massachusetts	1798	1801
William Charles Cole Claiborne of Tennessee . .	1801	1805
Robert Williams of North Carolina	1805	1809
David Holmes of Virginia	1809	1817

THE ALABAMA TERRITORY.

William Wyatt Bibb of Georgia	Mar. 1817	Nov. 1819.
---	-----------	------------

THE STATE OF ALABAMA.

William Wyatt Bibb of Autauga	Nov. ¹ 1819	July 1820.
Thomas Bibb of Limestone	July 1820	Nov. 1821.
Israel Pickins of Greene	Nov. 1821	Nov. 1825.
John Murphy of Monroe	Nov. 1825	Nov. 1829.
Gabriel Moore of Madison	Nov. 1829	Mar. 1831.
Samuel B. Moore of Jackson	Mar. 1831	Nov. 1831.
John Gayle of Greene	Nov. 1831	Nov. 1835.
Clement Comer Clay of Madison	Nov. 1835	July 1837.
Hugh McVay of Lauderdale	July 1837	Nov. 1837.
Arthur Pendleton Bagby of Monroe	Nov. 1837	Nov. 1841.
Benjamin Fitzpatrick of Autauga	Nov. 1841	Nov. 1845.
Joshua Lanier Martin of Tuscaloosa	Nov. 1845	Nov. 1847.
Reuben Chapman of Madison	Nov. 1847	Nov. 1849.
Henry Watkins Collier of Tuscaloosa	Nov. 1849	Nov. 1853.
John Anthony Winston of Sumter	Nov. 1853	Nov. 1857.
Andrew Barry Moore of Perry	Nov. 1857	Nov. 1861.
John Gill Shorter of Barbour	Nov. 1861	Nov. 1863.
Thomas Hill Watts of Montgomery	Nov. 1863	Apr. 1865.

¹ Governor Bibb was inaugurated as governor at Huntsville on November 9, 1819, although the State was not formally admitted into the Union until December 14, 1819. (See ¶ 43.)

[Interregnum of two months after the surrender of the military department of the Confederate government, of which Alabama formed a part, to the Federal authorities. (See ¶ 54.)]

	<i>From</i>	<i>To</i>
Lewis E. Parsons ¹ of Talladega	June 1865	Dec. 1865.
Robert Miller Patton of Lauderdale	Dec. 1865	July 1868.
William H. Smith of Randolph	July 1868	Dec. 1870.
Robert Burns Lindsay of Colbert	Dec. 1870	Nov. 1872.
David P. Lewis of Madison	Nov. 1872	Nov. 1874.
George Smith Houston	Nov. 1874	Nov. 1878.
Rufus W. Cobb of Shelby	Nov. 1878	Dec. 1882.
Edward Asbury O'Neal of Lauderdale . .	Dec. 1882	Dec. 1886.
Thomas Seay of Hale	Dec. 1886	Dec. 1890.
Thomas Goode Jones of Montgomery . . .	Dec. 1890	Dec. 1894.
William C. Oates of Henry	Dec. 1894	—

¹ Appointed provisional governor of Alabama by President Johnson. (See ¶ 47.)

Comparative View of the Population of the Several Counties of Alabama, according to the Census of 1880 and the Census of 1890.

COUNTY.	COUNTY SEAT.	Population in 1880.	Population in 1890.	Increase per cent.
Autauga	Prattville	13,108	13,330	1.69
Baldwin	Daphne	8,603	8,941	3.93
Barbour	Clayton	33,979	34,898	2.70
Bibb	Centreville	9,487	13,824	45.72
Blount	Oneonta	15,369	21,927	42.67
Bullock	Union Springs	29,066	27,063	6.89*
Butler	Greenville	19,649	21,641	10.14
Calhoun	Jacksonville	19,591	33,835	72.71
Chambers	La Fayette	23,440	26,319	12.28
Cherokee	Centre	19,108	20,459	7.07
Chilton	Clanton	10,793	14,549	34.80
Choctaw	Butler	15,731	17,526	11.41
Clarke	Grove Hill	17,806	22,624	27.06
Clay	Ashland	12,938	15,765	21.85
Cleburne	Edwardsville	10,976	13,218	20.43
Coffee	Elba	8,119	12,170	49.90
Colbert	Tuscumbia	16,153	20,189	24.99
Conecuh	Evergreen	12,605	14,594	15.78
Coosa	Rockford	15,113	15,906	5.25
Covington	Andalusia	5,639	7,536	33.64
Crenshaw	Rutledge	11,726	15,425	31.55
Cullman	Cullman	6,355	13,439	111.47
Dale	Ozark	12,677	17,225	35.88
Dallas	Selma	48,433	49,350	1.89
De Kalb	Fort Payne	12,675	21,106	66.52
Elmore	Wetumpka	17,502	21,732	24.17
Escambia	Brewton	5,719	8,666	51.53
Etowah	Gadsden	15,398	21,926	42.40
Fayette	Fayette	10,135	12,823	26.52
Franklin	Belgreen	9,155	10,681	16.67
Geneva	Geneva	4,342	10,690	146.20
Greene	Eutaw	21,931	22,007	0.35
Hale	Greensboro	26,553	27,501	35.70
Henry	Abbeville	18,761	24,847	32.44
Jackson	Scottsboro	25,114	28,026	11.60
Jefferson	Birmingham	23,272	88,501	280.29
Lamar	Vernon	12,142	14,187	16.84
Lauderdale	Florence	21,035	23,739	12.85
Lawrence	Moulton	21,392	20,725	3.12*
Carried forward		641,590	828,810	. . .

* Decrease.

COUNTY.	COUNTY SEAT.	Population in 1880.	Population in 1890.	Increase per cent.
Br't forward	641,590	828,810	
Lee	Opelika	27,262	28,694	5.25
Limestone . . .	Athens	21,600	21,201	1.85*
Lowndes	Hayneville	31,176	31,550	1.20
Macon	Tuskegee	17,371	18,439	6.15
Madison	Huntsville	37,625	38,119	1.31
Marengo	Linden	30,890	33,095	7.14
Marion	Hamilton	9,364	11,347	21.18
Marshall	Guntersville	14,585	18,935	29.83
Mobile	Mobile	48,653	51,587	6.03
Monroe	Monroeville	17,091	18,990	11.11
Montgomery . .	Montgomery	52,356	56,172	7.29
Morgan	Somerville	16,428	24,089	46.63
Perry	Marion	30,741	29,332	4.58*
Pickens	Carrollton	21,479	22,470	4.61
Pike	Troy	20,640	24,423	18.33
Randolph	Wedowee	16,575	17,219	3.89
Russell	Seale	24,837	24,093	3.00*
St. Clair	Ashville	14,462	17,353	19.99
Shelby	Columbiana	17,236	20,886	21.18
Sumter	Livingston	28,728	29,574	2.94
Talladega	Talladega	23,360	29,346	25.63
Tallapoosa . . .	Dadeville	23,401	25,460	8.80
Tuscaloosa . . .	Tuscaloosa	24,957	30,352	21.62
Walker	Jasper	9,479	16,078	69.62
Washington . . .	St. Stephens	4,538	7,935	74.86
Wilcox	Camden	31,828	30,816	3.18*
Winston	Double Springs . .	4,253	6,552	54.96
Total for the State		1,262,505	1,513,017	19.84

* Decrease.

Cities and Towns in Alabama having a Population of over 1000, according to the Census of 1890.

<i>Names.</i>	<i>Counties in which located.</i>	<i>Population.</i>
Mobile	Mobile	31,076
Birmingham	Jefferson	26,178
Montgomery	Montgomery	21,883
Anniston	Calhoun	9,998
Huntsville	Madison	7,995
Selma	Dallas	7,622
Florence	Lauderdale	6,012
Bessemer	Jefferson	4,544
Eufaula	Barbour	4,394
Tuscaloosa	Tuscaloosa	4,215
Opelika	Lee	3,703
Phoenix City	Lee	3,700
New Decatur	Morgan	3,565
Troy	Pike	3,449
Gadsden	Etowah	2,901
Greenville	Butler	2,806
Decatur	Morgan	2,765
Sheffield	Colbert	2,731
Fort Payne	De Kalb	2,698
Tuscumbia	Colbert	2,491
Talladega	Talladega	2,063
Union Springs	Bullock	2,049
Marion	Perry	1,982
Pratt Mines	Jefferson	1,946
Demopolis	Marengo	1,898
Tuskegee	Macon	1,803
Evergreen	Conecuh	1,783
Greensboro	Hale	1,759
Avondale	Jefferson	1,642
Woodlawn	Jefferson	1,506
Oxford	Calhoun	1,473
Auburn	Lee	1,440
Tallassee	Elmore	1,413
La Fayette	Chambers	1,369
Attalla	Etowah	1,254
Jacksonville	Calhoun	1,237
Ozark	Dale	1,195
Eutaw	Greene	1,125
Brewton	Escambia	1,115
Cullman	Cullman	1,017
Gainesville	Sumter	1,017



(The numbers refer to paragraphs except where the page is indicated.)

- ADJUTANT-GENERAL, p. 44, n. 1
Administrative boards and officers,
State, 81
Agricultural and Mechanical Col-
lege, 55
Agricultural schools, 55
Alabama-Bryce Insane Hospital, 56
Alabama, interpretation of name,
p. 22, n. 1
Alabama Territory, 34-38
Assembly, General, 63
Attorney-general, 73
Auditor, State, 72
- BALLOT, 128, 130
Bienville, 9-11
Board of assessment, State, 88
Board of equalization, county, 96
Board of health, county, 102
Board of health, State, 80
Boards of revenue, county, p. 58, n. 2
- CANDIDATES, NOMINATION OF, 124
Capitals, State, 44
Chancery courts, 87
Circuit courts, 84
Circuit solicitor, 86
Citizen, 59
City, 111
City attorney, 116
City council, 113
City courts, 85
City government, functions of, 112
Civil war, 53, 54
Clerk, city, 115
Clerk of circuit court, 93
Clerk of probate court, 91
- Commissioner of agriculture, 75
Commissioners, county, 94
Committees, 64, 65
Constable, 107
Constitution of Alabama, first, 39-
42
Constitution of Alabama, present,
text of, pp. 79-121
Contests of election, 134
Conventions, 124, 125
Convict inspectors, 79
Coroner, 99
County court, 91
County officers, 89
County organization, 89
County-seat, 90
County solicitor, p. 57, n. 1
County surveyors, 101
- DEAF AND DUMB AND BLIND IN-
STITUTES, 56
De Soto, 1-6
Division of powers, 62
- ELECTIONS, 126
Election officers, 129
Electors, 60
English occupancy, 13-17
Examination of teachers, 100
Examiner of public accounts, State,
76
Executive department, 67
- FRAMERS OF FIRST CONSTITUTION,
40; p. 26, n. 1
French exploration, 7-9
French settlement, 9-11

French-Indian war, 13; p. 11, n. 1
 Functions of State government, 61

GENERAL ASSEMBLY, 63
 Governor, 68, 69

HOUSE OF REPRESENTATIVES, 65

IBERVILLE, 8, 9
 Impeachment, 64, 83
 Income of the State, 88
 Inspector of mines, 77

JUDICIAL DEPARTMENT, 82
 Jury commissioners, 95
 Justice of the peace, 105

LA SALLE, 7, 8
 Law-making, 66
 Legislative power, 63

MARSHAL, 117
 Mayor, 114
 Militia, 69; p. 44, n. 2
 Mississippi Territory, 21-33
 Municipal government, 109-118
 Municipal revenues, 118

NORMAL SCHOOLS, 55
 Notary public, 106

OFFICERS-ELECT, 133

PARTIES, POLITICAL, 119-123
 Party organization, 123
 Pension examiners, 103
 Poor, support of, 94
 Precinct, 104
 Primaries, 124
 Private secretary of governor, p.
 43, n. 1
 Probate judge, 91
 Public education, 42, 55, 74, 100, 108,
 112

RAILROAD COMMISSIONERS, 78
 Reconstruction, 47-51
 Register in chancery, 87
 Registrars, 127
 Representatives, House of, 65
 Result of election, declaration of,
 132

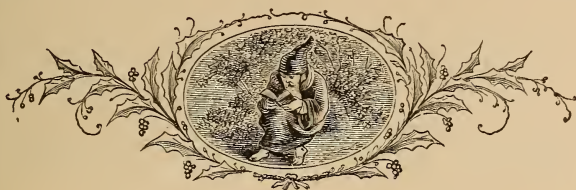
SCHOOL TRUSTEES, 108
 Secession, ordinance of, 45
 Secretary of State, 70
 Senate, 64
 Settlement, first, 9, 10
 Sheriff, 92
 Spanish conquest, 18-20
 Spanish exploration, 1-6
 State executive officers, 67
 State troops, 69
 Superintendent of education, coun-
 ty, 100
 Superintendent of education, State,
 74
 Supervisors of elections, 132
 Supreme court, 83

TAXATION, 88, 94, 118
 Tax assessor, 96
 Tax collector, 97
 Town, 109
 Town officers, 110
 Township, 108
 Treasurer, county, 98
 Treasurer, State, 71
 Trustees of township, 108

UNIVERSITY OF ALABAMA, 42, 55

VETO POWER, 66
 Village, p. 64, n. 1.
 Voter, 60
 Voting, method of, 130

WARDS, 113



MODEL TEXT-BOOKS.

CHASE & STUART'S CLASSICAL SERIES.

COMPRISING

First Year in Latin,
 A Latin Grammar,
 A Latin Reader,
Cæsar's Commentaries,
 First Six Books of Æneid,
 Virgil's Eclogues and Georgics,
 Cicero's Select Orations,
Horace's Odes, Satires, and Epistles,
 Selections from Horace, with Lexicon,
 Sallust's Catiline et Jugurtha,
 Cicero De Senectute, et de Amicitia,
 Cornelius Nepos,
Cicero's Select Letters, *Cicero de Officiis,*
Cicero's Tusculan Disputations,
 Cicero de Oratore, *Juvenal,*
 Terence, *Tacitus,*
 Ovid, *Pliny,* *Livy.*

A
SERIES OF TEXT-BOOKS
ON THE
ENGLISH LANGUAGE.

By JOHN S. HART, LL.D.,

*Late Professor of Rhetoric and of the English Language in the
College of New Jersey.*

The Series comprises the following volumes—viz.:

Language Lessons for Beginners,
Elementary English Grammar,
English Grammar and Analysis,
First Lessons in Composition,
Composition and Rhetoric.

Hart's *Composition and Rhetoric* is more generally in use throughout the country than any other work on the subject.

Prof. Moses Coit Tyler says of it:

"In the transition from grammar to what may be called the mechanics of literary workmanship, we are obliged to insist upon a particular text-book—Hart's '*Composition and Rhetoric*'—simply because that book is the only one as yet in the market which deals so fully and so well with the topics which we desire to emphasize."

Its *Practical Character* is one of its most valuable features. Rhetoric is an art as well as a science, and no text-book for the class-room is of much value which is not well furnished with "Examples for Practice." In this respect, this book is far ahead of any other work of the kind.

Its *Adaptability* to all grades of schools is another feature of value. It is equally in place in the graded school, the academy, the female seminary, and in the higher institutions of learning.

The *Thousands of Schools* of every grade, in all sections of the country, in which this book is being used, not only with satisfaction, but with enthusiasm, testify to its merit. Unless peculiarly meritorious, no book could possibly attain the widespread popularity which has been accorded to this manual.

Easy Lessons in Natural Philosophy.

For children. By EDWIN J. HOUSTON, A. M.

Intermediate Lessons in Natural Philosophy.

By EDWIN J. HOUSTON, A. M.

Elements of Natural Philosophy.

For Schools and Academies. By EDWIN J. HOUSTON, A. M.

Elements of Physical Geography. NEW EDITION.

By EDWIN J. HOUSTON, A. M.

Houston's New Physical Geography is the realization of what a text-book on this subject should be. It is a book that will gladden the hearts of teachers and pupils. It is concise, comprehensive, up to the times, and in every respect an *ideal text-book*.

Great care has been taken to avoid the mistake, common to most books of its class, of crowding both text and maps with a mass of technical detail which simply confuse and bewilder the pupil. As a working text-book for class-room use, Houston's New Physical Geography stands to-day at the head of the list of similar works, and is practically without a peer.

Christian Ethics ; or, The Science of the Life of Human Duty.

A New Text-Book on Moral Science. By Rev. D. S. GREGORY, D. D., Late President of Lake Forest University, Illinois.

Practical Logic ; or, The Art of Thinking.

By Rev. D. S. GREGORY, D. D.

Groesbeck's Practical Book-Keeping Series.

By Prof. JOHN GROESBECK, Late Prin. of the Crittenden Commercial College. In Two Volumes—viz.:

COLLEGE EDITION, for Commercial Schools, Colleges, etc.

SCHOOL EDITION, for Schools and Academies.

An Elementary Algebra.

A Text-Book for Schools and Academies. By JOSEPH W. WILSON, A. M., Late Professor of Mathematics in the Philadelphia Central High School.

The Crittenden Commercial Arithmetic and Business Manual.

Designed for the use of Teachers, Business Men, Academies, High Schools, and Commercial Colleges. By Professor JOHN GROESBECK, Late Prin. of Crittenden Commercial College.

A Manual of Elocution and Reading.

Founded on Philosophy of the Human Voice. By EDWARD BROOKS, Ph.D., Late Prin. of State Normal School, Millersville, Pa.

The Government of the People of the United United States.

By FRANCIS NEWTON THORPE, Professor of Constitutional History in the University of Pennsylvania.

"If we were asked to name one book that was a fitting representative of the modern American text-book, we should name Thorpe's Civics."

American Literature.

A Text-Book for High Schools, Academies, Normal Schools, Colleges, etc. By A. H. SMYTH, Prof. of Literature, Central High School, Philadelphia.

The Normal English Grammar.

By GEO. L. MARIS, A. M., Principal of Friends' Central High School, Philadelphia.

Intended for use in Normal Schools, High Schools, Academies, and the higher grade of schools generally. It is not a book for pupils beginning the study of English grammar.

The Model Definer.

A Book for Beginners, containing Definitions, Etymology, and Sentences as Models, exhibiting the correct use of Words. By A. C. WEBB.

The Model Etymology.

Containing Definitions, Etymology, Latin Derivatives, Sentences as Models, and Analysis. With a Key containing the Analysis of every word which could present any difficulties to the learner. By A. C. WEBB.

A Manual of Etymology.

Containing Definitions, Etymology, Latin Derivatives, Greek Derivatives, Sentences as Models, and Analysis. With a Key containing the Analysis of every word which could present any difficulties to the learner. By A. C. WEBB.

First Lessons in Physiology and Hygiene.

With special reference to the Effects of Alcohol, Tobacco, etc. By CHARLES K. MILLS, M. D.

First Lessons in Natural Philosophy.

For Beginners. By JOSEPH C. MARTINDALE, M. D.

A Hand-Book of Literature, } English A Short Course in Literature, } ^{AND} American.

By E. J. TRIMBLE, Late Professor of Literature, State Normal School, West Chester, Pa.

Short Studies in Literature, English and American.

By A. P. SOUTHWICK, A. M.

A Hand-Book of Mythology.

By S. A. EDWARDS, Teacher of Mythology in the Girls' Normal School, Philadelphia.

3000 Practice Words.

By J. WILLIS WESTLAKE, A. M., Late Professor in State Normal School, Millersville, Pa. Contains lists of Familiar Words often Misspelled, Difficult Words, Homophonous Words, Words often Confounded, Rules for Spelling, etc.

In the School-Room ;

Or, CHAPTERS IN THE PHILOSOPHY OF EDUCATION. Gives the experience of nearly forty years spent in school-room work.

By JOHN S. HART, LL.D.

Our Bodies.

By CHARLES K. MILLS, M. D., and A. H. LEUF, M. D. A series of five charts for teaching Anatomy, Physiology, and Hygiene, and showing the Effects of Alcohol on the Human Body.

The Model Pocket-Register and Grade-Book.

A Roll-Book, Record, and Grade-Book combined. Adapted to all grades of Classes, whether in College, Academy, Seminary, High or Primary School.

The Model School Diary.

Designed as an aid in securing the co-operation of parents. It consists of a Record of the Attendance, Deportment, Recitations, etc., of the Scholar for every day. At the close of the week it is to be sent to the parent or guardian for examination and signature.

The Model Monthly Report.

Similar to the Model School Diary, excepting that it is intended for a *Monthly* instead of a *Weekly* report of the Attendance, Recitations, etc. of the pupil.


The Model Roll-Book, No. 1.

The Model Roll-Book, No. 2.

The Model Roll-Book, No. 1, is so ruled as to show at a glance the record of a class for three months, allowing five weeks to each month, with spacing for weekly, monthly, and quarterly summary, and a blank space for remarks at the end of the quarter.

The Model Roll-Book, No. 2, is arranged on the same general plan, as regards spacing, etc., excepting that each page is arranged for a month of five weeks; but, in addition, the names of the studies generally pursued in schools are printed immediately following the name of the pupil, making it more

convenient when it is desirable to have a record of all the studies pursued by a pupil brought together in one place.

 *Specimen Sheets sent by Mail on Application.*

Manuals for Teachers.

A Series of Hand-Books comprising five volumes—viz:

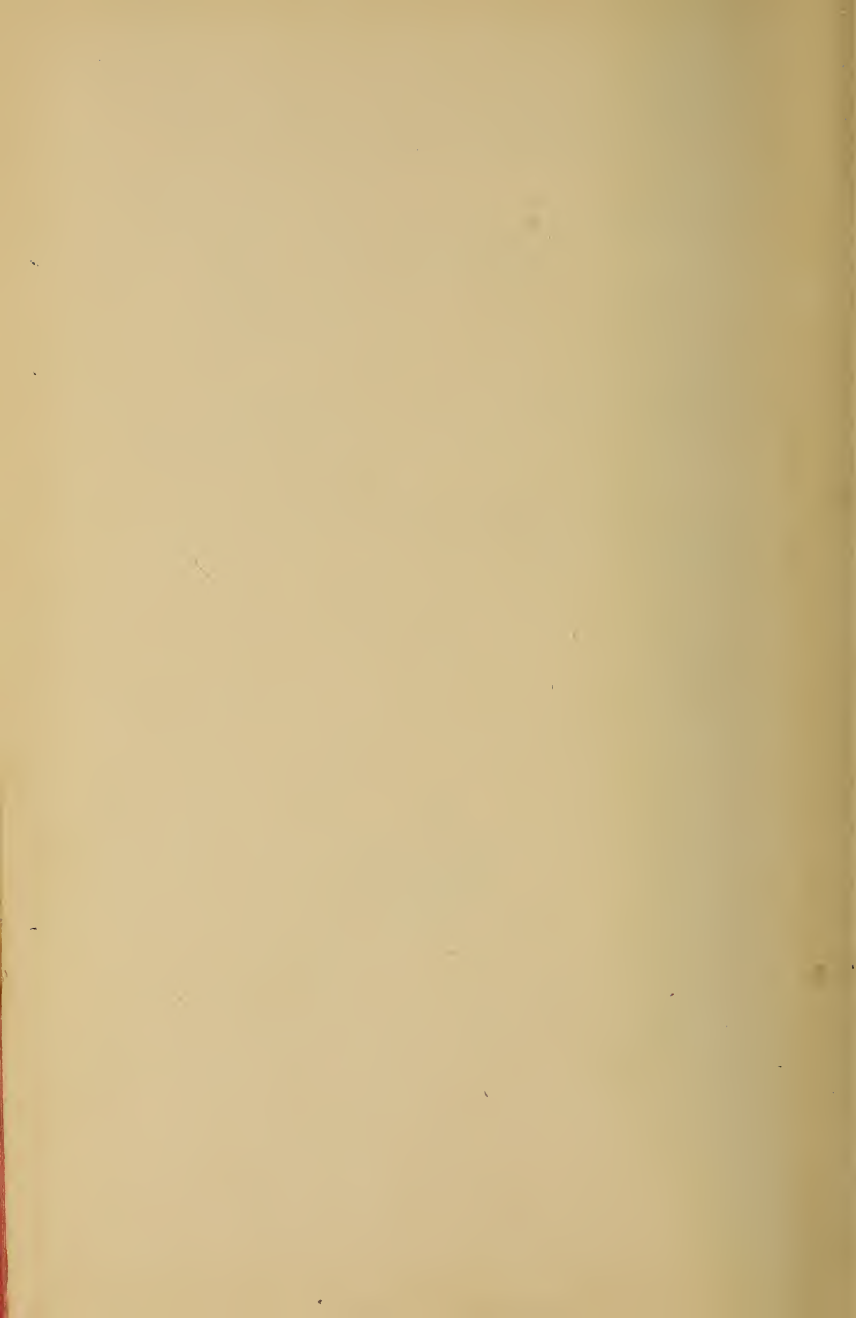
1. *On the Cultivation of the Senses.*
 2. *On the Cultivation of the Memory.*
 3. *On the Use of Words.*
 4. *On Discipline.*
 5. *On Class Teaching.*
-

We shall be gratified to have teachers correspond with us. We offer some of the best of Modern Text-Books, and shall be glad at any time to make liberal arrangements for their introduction, or to exchange for others that do not give satisfaction. Please address

ELDRIDGE & BROTHER,
17 North Seventh Street,
PHILADELPHIA.

6









<http://stores.ebay.com/Ancestry-Found>

LIBRARY OF CONGRESS



0 021 051 711 A

<http://stores.ebay.com/Ancestry-Found>

LIBRARY OF CONGRESS



0 021 051 711 A

<http://stores.ebay.com/Ancestry-Found>

LIBRARY OF CONGRESS



0 021 051 711 A