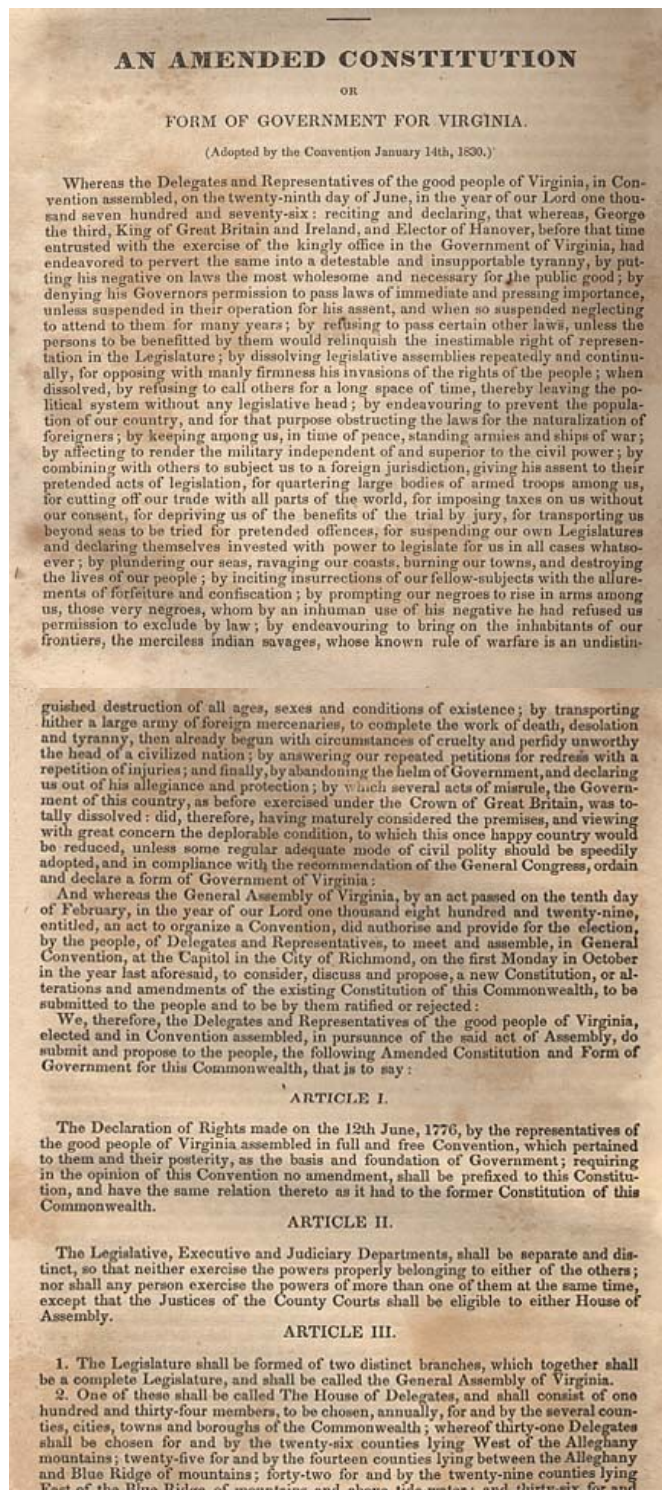




West Virginia Archives & History

1830 Virginia Constitution

Proceedings and Debates of the
Virginia State Convention of 1829-30
(Richmond: Samuel Shepherd & Co., 1830)



by the counties, cities, towns and boroughs lying upon tide-water, that is to say: Of the twenty-six counties lying West of the Alleghany, the counties of Harrison, Montgomery, Monongalia, Ohio and Washington, shall each elect two Delegates; and the counties of Brooke, Cabell, Grayson, Greenbrier, Giles, Kanawha, Lee, Lewis, Logan, Mason, Monroe, Nicholas, Pocahontas, Preston, Randolph, Russell, Scott, Tazewell, Tyler, Wood and Wythe, shall each elect one Delegate. Of the fourteen counties lying between the Alleghany and Blue Ridge, the counties of Frederick and Shenandoah, shall each elect three Delegates; the counties of Augusta, Berkeley, Botetourt, Hampshire, Jefferson, Rockingham and Rockbridge, shall each elect two Delegates; and the counties of Alleghany, Bath, Hardy, Morgan and Pendleton, shall each elect one Delegate. Of the twenty-nine counties lying East of the Blue Ridge and above tide-water, the county of Loudoun, shall elect three Delegates; the counties of Albemarle, Bedford, Brunswick, Buckingham, Campbell, Culpeper, Fauquier, Franklin, Halifax, Mecklenburg and Pittsylvania, shall each elect two Delegates; and the counties of Amelia, Amherst, Charlotte, Cumberland, Dinwiddie, Fluvanna, Goochland, Henry, Louisa, Lunenburg, Madison, Nelson, Nottoway, Orange, Patrick, Powhatan and Prince Edward, shall each elect one Delegate. And of the counties, cities, towns and boroughs lying on tide-water, the counties of

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Accomack and Norfolk, shall each elect two Delegates; the counties of Caroline, Chesterfield, Essex, Fairfax, Greensville, Gloucester, Hanover, Henrico, Isle of Wight, King & Queen, King William, King George, Nanssmond, Northumberland, Northampton, Princess Anne, Prince George, Prince William, Southampton, Spottsylvania, Stafford, Sussex, Surry and Westmoreland, and the city of Richmond, the borough of Norfolk, and the town of Petersburg, shall each elect one Delegate; the counties of Lancaster and Richmond, shall together elect one Delegate; the counties of Mathews and Middlesex, shall together elect one Delegate; the counties of Elizabeth City and Warwick, shall together elect one Delegate; the counties of James City and York, and the city of Williamsburg, shall together elect one Delegate; and the counties of New Kent and Charles City, shall together elect one Delegate.

3. The other House of the General Assembly shall be called the Senate, and shall consist of thirty-two members, of whom thirteen shall be chosen for and by the counties lying West of the Blue Ridge of mountains, and nineteen for and by the counties, cities, towns and boroughs lying East thereof; and for the election of whom, the counties, cities, towns and boroughs shall be divided into thirty-two districts, as herein after provided. Each county of the respective districts, at the time of the first election of its Delegate or Delegates under this Constitution, shall vote for one Senator; and the Sheriff or other officers holding the election for each county, city, town or borough, within five days at farthest after the last county, city, town or borough election in the district, shall meet at some convenient place, and from the polls so taken in their respective counties, cities, towns or boroughs, return as a Senator the person who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the first general election, the eight members elected by the first division shall be displaced, and the vacancies thereby occasioned, supplied from such class or division by new election in the manner aforesaid. This rotation shall be applied to each division according to its number, and continued in due order annually. And for the election of Senators, the counties of Brooke, Ohio and Tyler, shall form one district: the counties of Monongalia, Preston and Randolph, shall form another district: the counties of Harrison, Lewis and Wood, shall form another district: the counties of Kanawha, Mason, Cabell, Logan and Nicholas, shall form another district: the counties of Greenbrier, Monroe, Giles and Montgomery, shall form another district: the counties of Tazewell, Wythe and Grayson, shall form another district: the counties of Washington, Russell, Scott and Lee, shall form another district: the counties of Berkeley, Morgan and Hampshire, shall form another district: the counties of Frederick and Jefferson shall form another district: the counties of Shenandoah and Hardy shall form another district: the counties of Rockingham and Pendleton shall form another district: the counties of Augusta and Rockbridge shall form another district: the counties of Alleghany, Bath, Pocahontas and Botetourt, shall form another district: the counties of Loudoun and Fairfax shall form another district: the counties of Fauquier and Prince William shall form another district: the counties of Stafford, King George, Westmoreland, Richmond, Lancaster and Northumberland, shall form another district: the counties of Culpeper, Madison and Orange, shall form another district: the counties of Albemarle, Nelson and Amherst, shall form another district: the counties of Fluvanna, Goochland, Louisa and Hanover, shall form another district: the counties of Spottsylvania, Caroline and Essex, shall form another district: the counties of King & Queen, King William, Gloucester, Mathews and Middlesex, shall form another district: the counties of Accomack, Northampton, Elizabeth City, York and Warwick, and the city of Williamsburg, shall form another district: the counties of Charles City, James City, New Kent and Henrico, and the city of Richmond, shall form another district: the counties of Bedford and Franklin, shall form another district: the counties of Patrick, Henry and Pittsylvania, shall form another district: the counties of Halifax and Mecklenburg shall form another district: the counties of Charlotte, Lunenburg, Nottoway and Prince Edward, shall form another district: the counties of Amelia, Powhatan and Chesterfield, and the town of Petersburg, shall form another district: the counties of Brunswick, Dinwiddie and Greensville, shall form another district: the counties of Isle of Wight, Prince George, Southampton, Surry and Sussex, shall form another district: and the counties of Norfolk, Nanssmond and Princess Anne, and the borough of Norfolk, shall form another district.

4. It shall be the duty of the Legislature, to re-apportion, once in ten years, to wit: in the year 1841, and every ten years thereafter, the representation of the counties, cities, towns and boroughs, of this Commonwealth, in both of the Legislative bodies: *Provided, however,* That the number of Delegates from the aforesaid great districts, and the number of Senators from the aforesaid two great divisions, respectively, shall neither be increased nor diminished by such re-apportionment. And

when a new county shall hereafter be created, or any city, town or borough, not now entitled to separate representation in the House of Delegates, shall have so increased in population as to be entitled, in the opinion of the General Assembly, to such representation, it shall be the duty of the General Assembly to make provision by law for securing to the people of such new county, or such city, town or borough, an adequate representation. And if the object cannot otherwise be effected, it shall be competent to the General Assembly to re-apportion the whole representation of the great district containing such new county, or such city, town or borough, within its limits; which re-apportionment shall continue in force till the next regular decennial re-apportionment.

5. The General Assembly, after the year 1841, and at intervals thereafter of not less than ten years, shall have authority, two-thirds of each House concurring, to make re-apportionments of Delegates and Senators, throughout the Commonwealth, so that the number of Delegates shall not at any time exceed 150, nor of Senators 36.

6. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States, shall be apportioned as nearly as may be, amongst the several counties, cities, boroughs and towns of the State, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years and excluding indians not taxed, three-fifths of all other persons.

7. Any person may be elected a Senator who shall have attained to the age of thirty years, and shall be actually a resident and freeholder within the district, qualified by virtue of his freehold, to vote for members of the General Assembly according to this Constitution. And any person may be elected a member of the House of Delegates, who shall have attained the age of twenty-five years, and shall be actually a resident and freeholder within the county, city, town, borough or election district, qualified by virtue of his freehold, to vote for members of the General Assembly according to this Constitution: *Provided,* That all persons holding lucrative offices and ministers of the Gospel and priests of every denomination, shall be incapable of being elected members of either House of Assembly.

8. The members of the Assembly shall receive for their services a compensation to be ascertained by law, and paid out of the public Treasury: but no law increasing the compensation of the members shall take effect until the end of the next annual session after such law shall have been enacted. And no Senator or Delegate shall, during the term for which he shall have been elected, be appointed to any civil office of profit under the Commonwealth, 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 elections by the people.

9. The General Assembly shall meet once or oftener every year. Neither House, during the session of the Legislature, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting. A majority of each House shall constitute a quorum to do business:

but a smaller number may adjourn from day to day, and shall be authorised to compel the attendance of absent members, in such manner and under such penalties as each House may provide. And each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies. But if vacancies shall occur by death or resignation, during the recess of the General Assembly, such writs may be issued by the Governor, under such regulations as may be prescribed by law. Each House shall judge of the election, qualification and returns of its members; may punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

10. All laws shall originate in the House of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates.

11. The privilege of the Writ of *Habeas Corpus* shall not in any case be suspended. The Legislature shall not pass any bill of attainder; or any *ex post facto* law; or any law impairing the obligation of contracts; or any law, whereby private property shall be taken for public uses, without just compensation; or any law abridging the freedom of Speech, or of the Press. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and the same shall in no wise affect, diminish or enlarge their civil capacities. And the Legislature shall not prescribe any religious test whatever; nor confer any peculiar privileges or advantages on any one sect or denomination; nor pass any law requiring or authorising any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry; but it shall be left free to every

person to select his religious instructor, and to make for his support such private contract as he shall please.

12. The Legislature may provide by law that no person shall be capable of holding or being elected to any post of profit, trust or emolument, civil or military, Legislative, Executive or Judicial, under the Government of this Commonwealth, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance; but no person shall be so disqualified by reason of his having heretofore fought such duel, or sent or accepted such challenge, or been second in such duel, or bearer of such challenge or acceptance.

13. The Governor, the Judges of the Court of Appeals and Superior Courts, and all others offending against the State, either by mal-administration, corruption, neglect of duty, or any other high crime or misdemeanor, shall be impeachable by the House of Delegates; such impeachment to be prosecuted before the Senate, which shall have the sole power to try all impeachments. When sitting for that purpose, the Senate shall be on oath or affirmation: and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit, under the Commonwealth; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

14. Every white male citizen of the Commonwealth, resident therein, aged twenty-one years and upwards, being qualified to exercise the Right of Suffrage according to the former Constitution and laws; and every such citizen, being possessed, or whose tenant for years, at will or at sufferance, is possessed, of an estate of freehold in land of the value of twenty-five dollars, and so assessed to be if any assessment thereof be required by law; and every such citizen, being possessed, as tenant in common, joint tenant or parcener, of an interest in or share of land, and having an estate of freehold therein, such interest or share being of the value of twenty-five dollars, and so assessed to be if any assessment thereof be required by law; and every such citizen being entitled to a reversion or vested remainder in fee, expectant on an estate for life or lives, in land of the value of fifty dollars, and so assessed to be if any assessment thereof be required by law; (each and every such citizen, unless his title shall have come to him by descent, devise, marriage or marriage-settlement, having been so possessed or entitled for six months); and every such citizen, who shall own and be himself in actual occupation of a leasehold estate, with the evidence of title recorded two months before he shall offer to vote, of a term originally not less than five years, of the annual value or rent of twenty dollars; and every such citizen, who for twelve months next preceding has been a house-keeper and head of a family within the county, city, town, borough or election district where he may offer to vote, and shall have been assessed with a part of the revenue of the Commonwealth within the preceding year, and actually paid the same—and no other persons—shall be qualified to vote for members of the General Assembly in the county, city, town or borough, respectively, wherein such land shall lie, or such house-keeper and head of a family shall live. And in case of two or more tenants in common, joint tenants or parceners, in possession, reversion or remainder, having interest in land, the value whereof shall be insufficient to entitle them all to vote, they shall together have as many votes as the value of the land shall entitle them to: and the Legislature shall by law provide the mode in which their vote or votes shall in such case be given: *Provided, nevertheless, That the Right of Suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, or a non-commissioned officer, soldier, seaman or marine, in the service of the United States, or by any person convicted of any infamous offence.*

15. In all elections in this Commonwealth, to any office or place of trust, honour or profit, the votes shall be given openly, or *viva voce*, and not by ballot.

ARTICLE IV.

1. The Chief Executive power of this Commonwealth, shall be vested in a Governor, to be elected by the joint vote of the two Houses of the General Assembly. He shall hold his office, during the term of three years, to commence on the first day of January next succeeding his election, or on such other day, as may from time to time be prescribed by law; and he shall be ineligible to that office, for three years next after his term of service shall have expired.

2. No person shall be eligible to the office of Governor, unless he shall have attained the age of thirty years, shall be a native citizen of the United States, or shall have been a citizen thereof at the adoption of the Federal Constitution, and shall have been a citizen of this Commonwealth for five years next preceding his election.

3. The Governor shall receive for his services a compensation to be fixed by law, which shall be neither increased nor diminished, during his continuance in office.

4. He shall take care that the laws be faithfully executed; shall communicate to the Legislature, at every session, the condition of the Commonwealth, and recommend to their consideration such measures as he may deem expedient. He shall be Commander-in-chief of the land and naval forces of the State. He shall have power to embody the militia, when in his opinion, the public safety shall require it; to convene the Legislature, on application of a majority of the members of the House of Delegates, or when, in his opinion, the interest of the Commonwealth may require it; to grant reprieves and pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; to conduct, either in person, or in such manner as shall be prescribed by law, all intercourse with other and foreign States; and during the recess of the Legislature, to fill, *pro tempore*, all vacancies in those offices, which it may be the duty of the Legislature to fill permanently: *Provided, That his appointments to such vacancies shall be by commissions to expire at the end of the next succeeding session of the General Assembly.*

5. There shall be a Council of State, to consist of three members, any one or more of whom may act. They shall be elected by joint vote of both Houses of the General Assembly, and remain in office three years. But of those first elected, one, to be designated by lot, shall remain in office for one year only, and one other to be designated in like manner, shall remain in office for two years only. Vacancies occurring by expiration of the term of service, or otherwise, shall be supplied by elections made in like manner. The Governor shall, before he exercises any discretionary power conferred on him by the Constitution and laws, require the advice of the Council of State, which advice shall be registered in books kept for that purpose, signed by the members present and consenting thereto, and laid before the General Assembly when called for by them. The Council shall appoint their own Clerk, who shall take an oath to keep secret such matters as he shall be ordered by the Board to conceal. The Senior Councillor shall be Lieutenant-Governor, and in case of the death, resignation, inability or absence of the Governor from the seat of Government, shall act as Governor.

6. The manner of appointing militia officers shall be provided for by law: but no

officer below the rank of a Brigadier General, shall be appointed by the General Assembly.

7. Commissions and grants shall run in the name of the Commonwealth of Virginia, and bear teste by the Governor, with the seal of the Commonwealth annexed.

ARTICLE V.

1. The Judicial power shall be vested in a Supreme Court of Appeals, in such Superior Courts as the Legislature may from time to time ordain and establish, and the Judges thereof, in the County Courts, and in Justices of the Peace. The Legislature may also vest such jurisdiction as shall be deemed necessary in Corporation Courts, and in the Magistrates who may belong to the corporate body. The jurisdiction of these tribunals, and of the Judges thereof, shall be regulated by law. The Judges of the Supreme Court of Appeals and of the Superior Courts, shall hold their offices during good behaviour, or until removed in the manner prescribed in this Constitution; and shall, at the same time, hold no other office, appointment, or public trust; and the acceptance thereof by either of them shall vacate his judicial office.

2. No law abolishing any court shall be construed to deprive a Judge thereof of his office, unless two-thirds of the members of each House present concur in the passing thereof; but the Legislature may assign other Judicial duties to the Judges of courts abolished by any law enacted by less than two-thirds of the members of each House present.

3. The present Judges of the Supreme Court of Appeals, of the General Court, and of the Superior Courts of Chancery, shall remain in office until the termination of the session of the first Legislature elected under this Constitution, and no longer.

4. The Judges of the Supreme Court of Appeals and of the Superior Courts shall be elected by the joint vote of both Houses of the General Assembly.

5. The Judges of the Supreme Court of Appeals and of the Superior Courts shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office.

6. Judges may be removed from office by a concurrent vote of both Houses of the General Assembly; but two-thirds of the members present must concur in such vote, and the cause of removal shall be entered on the Journals of each. The Judge against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the General Assembly shall act thereupon.

7. On the creation of any new county, Justices of the Peace shall be appointed, in the first instance, in such manner as may be prescribed by law. When vacancies shall occur in any county, or it shall, for any cause, be deemed necessary to increase the number, appointments shall be made by the Governor, on the recommendation of the respective County Courts.

8. The Attorney-General shall be appointed by joint vote of the two Houses of the General Assembly, and commissioned by the Governor, and shall hold his office, during the pleasure of the General Assembly. The Clerks of the several courts, when vacancies shall occur, shall be appointed by their respective courts, and the tenure of office, as well of those now in office as of those who may be hereafter appointed, shall be prescribed by law. The Sheriffs and Coroners shall be nominated by the respective County Courts, and when approved by the Governor, shall be commissioned by him. The Justices shall appoint Constables. And all fees of the aforesaid officers, shall be regulated by law.

9. Writs shall run in the name of the Commonwealth of Virginia, and bear teste by the Clerks of the several courts. Indictments shall conclude, Against the peace and dignity of the Commonwealth.

ARTICLE VI.

A Treasurer shall be appointed annually by joint vote of both Houses.

ARTICLE VII.

The Executive Department of the Government shall remain as at present organized, and the Governor and Privy Councillors shall continue in office, until a Governor elected, under this Constitution, shall come into office; and all other persons in office when this Constitution shall be adopted, except as is herein otherwise expressly directed, shall continue in office, till successors shall be appointed, or the law shall otherwise provide; and all the Courts of Justice now existing shall continue with their present jurisdiction, until and except so far as, the Judicial system may or shall be hereafter otherwise organized by the Legislature.

Done in Convention in the City of Richmond, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fourth year of the Independence of the United States of America.

PHILIP P. BARBOUR,
President of the Convention.

D. BRIGGS,
Secretary of the Convention.

SCHEDULE.

Ordered, that the roll containing the draught of the Amended Constitution adopted by this Convention, and by it submitted to the people of this Commonwealth, for their ratification or rejection, be enclosed by the Secretary in a case proper for its preservation, and deposited among the archives of the Council of State.

Ordered, that the Secretary do cause the Journal of the proceedings of this Convention, to be fairly entered in a well bound book, and after the same shall have been signed by the President, and attested by the Secretary, that he deposit the same, together with all the original documents in the possession of the Convention, and connected with its proceedings, among the archives of the Council of State; and further, that he cause ten printed copies of the said Journal to be well bound, and deposited in the Public Library.

Ordered, that the President of the Convention, do certify a true copy of the Amended Constitution to the General Assembly now in session; and that the General Assembly be and they are hereby requested to make any additional provisions by law, which may be necessary and proper for submitting the same to the voters thereby qualified to vote for members of the General Assembly at the next April elections, and for organizing the Government under the Amended Constitution, it case it shall be approved and ratified by such voters.