

*SHORTER COURSE
IN CIVIL GOVERNMENT*

TOWNSEND

THE CENTRAL CHAMBER



Class JK251

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SHORTER COURSE

IN

CIVIL GOVERNMENT

ARRANGED IN TOPICS, WITH NUMEROUS QUESTIONS
FOR CONVENIENCE IN TEACHING

BY

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P R E F A C E .

THE first attempt ever made to present the subject of Civil Government in a really didactic form was made by the author a few years ago, through his "Analysis of Civil Government." Although the method was entirely new and therefore open to fair criticism, that work has been received with favor, and is used as the text-book on the subject by many of our most prominent institutions of learning. From its first appearance, the call for it has increased to an extent both flattering to the author and gratifying to the publishers.

But it would be difficult, if not impossible, to prepare a text-book on any subject equally adapted to all grades of scholarship. A book may meet the wants of a college or university, which may not be convenient for use in preparatory schools. Hence, while the "Analysis of Civil Government" has proved its entire fitness for the higher institutions, the calls have been numerous from teachers of common, select, and grammar schools, for a shorter text-book, but on the general plan of the "Analysis."

Thousands of our live, earnest, devoted educators believe with a working faith that the day is not distant when civil government will be in the list of compulsory studies in the common school. From many of this class of faithful laborers the author has received letters urging and encouraging him to the preparation of this little volume. One correspondent says, "The common schools do not call for a better book than your 'Analysis of Civil Government,' but for one that is shorter, simpler, and more easily taught to the boys and girls of ages from twelve to sixteen years. Your 'Analysis' is all that could be asked in high schools, normal schools, and even colleges and universities."

This little volume is not intended to take the place of the author's larger work, herein referred to. Every teacher who uses this will find that book a great convenience, if not a necessity, on his table. It dwells more at large and in detail on many matters that are but very briefly noticed in these pages.

The peculiarities of this class-book are in some degree the result of friendly suggestions from sources already credited, and are as follows:—

1. The matter is presented by topics and in analytical form.
2. The chapters are divided into lessons, each of convenient length for class drill.

3. For convenience in teaching, each lesson is immediately followed by questions relating to the subject-matter thereof.

It has not been thought necessary to take up the governments of the States and their subdivisions and treat them one by one as independent and separate systems. There is such a marked similarity of the several State governments to each other and of all to the government of the United States, that whoever understands the grand plan of the latter will readily comprehend the general features of any State government by a mere glance at the State constitution.

As this edition is designed specially for use in Missouri, however, it has been deemed advisable to insert a brief treatment of the government of that State. This treatment, embraced in Chapters XXII. to XXVI. inclusive, and prepared under the supervision of PROF. J. M. WHITE, of Carthage, Mo., will enable the pupil to appreciate the general similarity as well as the slight differences between the State and Federal governments.

The author submits the result of his effort to the candid and enlightened judgment of the great army of educators in the United States. He has labored under a most painful burden in this last attempt at authorship,—one which he fervently prays that neither teacher nor pupil may ever personally realize. He alone can fully appreciate the embarrassment under which this work has been written who has himself attempted a similar task with sightless eyes.

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CHAPTER I.

LESSON I. — CIVIL GOVERNMENT.

THE word "government," in its general and comprehensive sense, signifies that influence and power which one person or thing exercises over others. The mainspring of a watch, for instance, governs the movement of that machine. Gravitation governs the motions of the heavenly bodies, and, to some extent, of all others.

A father governs his family. The mayor and aldermen of a city govern the affairs of that corporation. The president and professors of a college or university are called the faculty, who govern the institution, as the schoolmaster governs his school. The sovereign of a nation governs the people of whom it is constituted. No nation could exist, as such, for a single month without organized government in some form or other. No citizen could enforce his rights to security of property and personal safety against the attacks of the vicious and depraved. He would not be safe under his own roof, but would be in constant danger while sleeping in his own bed and reposing on his own pillow.

This would be a condition of fearful anarchy. Under such a state of things, no person could feel the least interest in the accumulation of property, for it would be sure to be wrested from him by the hands of thieves and robbers. He could feel no incentive to the cultivation of

fields and gardens, for they would be despoiled by ruthless vandals and reckless marauders.

Without the power of government in some organized form, the sufferers from such outrages could obtain no redress, except through those retaliatory measures that must lead to anarchy and bloodshed among the parties concerned. There would be no tribunal by which to try, condemn, and by whose authority to punish, such offenders. The weak must surrender to the strong, and right must give way to might. Mere physical force and brutality would triumph over justice and reason. The strong man, like the strong beast of the forest, would be king among his kindred. But, under the authority of good government, the bad man, however gigantic in form and strength, may be restrained in his vices, and punished for his crimes.

As here used, the word "government" signifies the organized means and power that a state or nation employs for the purpose of securing the rights of the people, and of perpetuating its own existence.

Government is of various forms, depending on the choice of those who have the power to establish it. The *Forms of Govern-* most ignorant nations are governed by *ment vary.* tyrants and despots, who rule without any regard to the welfare of their subjects. The caprice of the sovereign is the law; and it must be obeyed, though the heads fall from the shoulders of a thousand subjects at a blow. Nothing but the profoundest ignorance of the people could give security and stability to the throne of the despot. "Despotism is the only form of government which may, with safety to itself, neglect the education of its infant poor." The despot rules without regard to a constitution or laws.

Hence history shows that the more despotic the govern-

ment, the more ignorant the common people. Let the people be educated the world over, and despotic governments would be known only as institutions of the past. They would be lost in bygone history.

The statesman knows that a form of government well adapted to the condition of a refined and intelligent people is not the form adapted to a people sunk in ignorance and superstition. The common schoolhouse is an enemy to despotism, and the friend to free government. Intelligence qualifies the citizen for self-government. It enables him to judge for himself on all questions affecting the public interest. He is not satisfied when denied a voice in their decisions.

While a free government, like that of the United States, is the best possible form for an intelligent and virtuous people, on the other hand, it is the very worst for the ignorant and depraved. Under the sway of the latter class, the power of administration would be likely soon to fall into the hands of political intriguers and ambitious demagogues.

The safety of our government depends entirely on the virtue and intelligence of the common people. An ignorant voter, with the ballot in his hand, may do as much damage to the commonwealth as the mercenary legislator or a corrupt executive.

The following are the principal forms of government known in history: I. *Patriarchal*; II. *Theocratic*; III. *Monarchial*; IV. *Aristocratic*; V. *Dem-Principal Forms*
ocratic; VI. *Republican*. In some coun- of *Government*.
tries there may be a combination of two or more of them, while in others there may be a modification of any one of them.

I. The *patriarchal* was the first and is the oldest human government. It is family government, or that form exer-

cised by the father over his family. From the necessary relations of a father to his household, this kind of *I. Patriarchal Government.* government is founded in nature. It existed from the earliest ages, long before states and nations were known, and while there were but few inhabitants on the earth. It was the only form until several centuries after the Flood. It still exists in some parts of Asia, Africa, and among the North American Indian tribes. Indeed, in a limited sense, it prevails wherever there is a household to govern, though perhaps not in the ancient mode. Strictly speaking, it lies at the foundation of all good government. When every father becomes a true patriarch at home, the national security will rest on the moral sense and intelligence of the people.

II. The *theocratic* form of government belongs, in history, to the Old Testament ages. A theocracy is a form of *II. Theocratic Government.* government under the immediate direction and administration of God. The ancient Israelites were governed in this manner for nearly fifteen hundred years. They received their law on Mount Sinai by direct revelation from God. This form of government became extinct at the dawn of the Christian era.

III. A *monarchial* form of government is one that is administered by a monarch. The country, kingdom, or empire over which he exercises jurisdiction is *III. Monarchial Government.* called a monarchy. It is that form of government in which the supreme authority is vested in a single person, who is called the monarch. He may be otherwise called king, emperor, czar, shah, sultan, or by any other term significant of his position.

With reference to the power vested in the sovereign, monarchies may be divided into two classes: 1. *Absolute*; 2. *Limited*.

1. An *absolute* monarchy is one over which the sovereign

rules with absolute power, holding himself responsible to no earthly tribunal for what he sees fit to do. He not only *makes* the law by which to govern his subjects, but interprets and executes it according to the caprices of his own will: in other words, his arbitrary will is the law of the realm. He does not, indeed, in all cases attend personally to the details of his government; but he appoints subordinate officers for this purpose. Their tenure of office, their salaries, and even their lives, are at his disposal. If, in his tyranny, he order that a hundred or a thousand of his hapless subjects shall be decapitated, their heads are severed from their bodies.

**1. Absolute
Monarchy.**

Such a ruler is a despot, and his government a terrible despotism. Morocco, Afghanistan, and some other Oriental countries, are absolute monarchies.

2. A *limited* monarchy is a government in which the sovereign is restrained by a constitution and established laws. These laws have their force by the decisions of the courts, by long-established usage, and by the enactments of the legislative authority.

**2. Limited
Monarchy.**

The monarch is simply the executive branch of the government. He can execute the laws, but he cannot make them. The court, not the king, interprets them. The Parliament makes the statutes, though the assent of the sovereign is essential to their validity; but that assent is rarely withheld. The sovereign of a limited monarchy has no right whatever to disregard the laws of his kingdom or empire: like his humblest subjects, he must obey them. Such a government may be called a constitutional monarchy.

With reference to the sovereign's title to his throne, monarchies are of two classes: (a) *Hereditary*; (b) *Elective*.

(a) Under an *hereditary* monarchy the sovereign obtains his title to the throne by birth. The oldest son of the de-

ceased monarch takes the crown of his father by inheritance. If there is no son, the oldest daughter succeeds to the throne of the father. Edward VI. of England, though but a lad in years, succeeded to the throne of his father, Henry VIII., in preference to his sisters, Mary and Elizabeth, both of whom were much older than the boy-king. At his death, having reigned but six years, Mary, his elder sister, was crowned. At her death, five years thereafter, the younger sister, Elizabeth, was crowned Queen of England.

Had Edward married, and become the father of children, they would have been heirs to the throne, to the exclusion of Mary and Elizabeth.

William I., a foreigner, obtained the throne of England in a single battle, fought in 1066 on the north shore of the British Channel. He is known in history as William the Conqueror. That single conflict of arms at Hastings decided who should occupy the throne of that country for more than eight hundred years, and probably for more than a thousand. The crown of royalty has rested on the brow of his descendants ever since the twenty-fifth day of December, the year of that eventful struggle. Yet not one of this long line of kings and queens has ever ascended the throne by the formal, expressed choice of English subjects. In many instances it has been occupied by foreigners, and in every case it has been claimed by right of birth.

(b) An *elective* monarchy is one whose sovereign is elected to the throne by his subjects, or by those holding official positions giving them a voice in the proceeding. He is elected for life. There have been but few such monarchies.

IV. An *aristocratic* government is one in which the power to rule the affairs of state is vested in the hands of a few persons,—a select body

of men. Aristocracy signifies a government of the best or by the best. They may hold their positions by right of birth or by appointment.

A government is said to be aristocratic the constitution of which establishes privileged classes, as the nobility and clergy, and intrusts the government entirely to them, or allows them a very disproportionate share in it. Such was formerly the government of Venice; and some of the Swiss cantons are governed in the same manner. More or less of this element pervades the most powerful governments of Europe. It is wholly absent in the government and Constitution of the United States. We have no orders of nobility, and no privileged classes.

V. A *democratic* form of government is one in which the ruling power, or the principle of sovereignty, is exercised by the people. Strictly speaking, it is one *V. Democratic Government.* under which the people assemble together at stated times, and all have a voice in making the laws by which they promise to be governed.

By the word "people," as here used, the qualified voters only are included. The qualifications to vote are generally defined by a constitution, called the fundamental law of the nation. Proper age, male sex, citizenship, and residence are the usual conditions for a voice in public affairs.

Some of the cities of ancient Greece acted under this form of government, and some of the smaller Swiss cantons govern themselves by the same mode; but it is a very unwieldy, clumsy method, and utterly impracticable in a state of considerable population, or breadth of territory.

VI. A *republican* form of government is a representative government. The state or nation *VI. Republican Government.* is governed by laws made by representatives chosen by the voters at elections held at stated

times, and most of the officers of government are elected in substantially the same way. The officer or representative is chosen by the people, and is their agent or servant.

A full definition of the word "republican," as generally understood, necessarily includes the element of democracy. The people's voice is heard in the election, and this is democratic. But the law-making and law-executing are done by those who are elected for these purposes. The latter is the *republican* element, or representative feature.

Hence the government of the United States is democratic-republican. The term "republican," however, is the one by which it is usually known. Defined by the extent and peculiarities of jurisdiction, the country known as the United States has two distinct classes of government. These are: 1. *State*; 2. *Federal*.

1. Each *State*, known and defined by geographical boundaries, has a dependent republican government of its own. Before it entered the Federal Union *1. State Governments.* it possessed all the attributes of national sovereignty. It could make treaties and form alliances; it could declare war, grant letters of marque and reprisal, and conclude peace; it could raise and support armies and navies; it could coin money, and emit bills of credit, and, in short, exercise all the prerogatives of an independent nation.

But these powers, and several others, were surrendered to the General Government when the State became a member of the Federal Union. On assuming this relation, the States ratified the Constitution of the United States. By this act all the States not only created a new government over themselves, but entered into entirely new relations to each other. They accepted a Constitution as the bond of their union.

This bond clearly defines what they severally resign for the common good, and what they reserve.

2. The *Federal* Government is the outgrowth of this union of the several States. The form of this government is, like that of each of the several States, *2. Federal* republican. It has, like the States, three *Government.* distinctive branches or departments: the legislative, executive, and judicial.

The Nation has its president, and the State has its governor; the Nation has its vice-president, and the State its lieutenant-governor. The Nation has its Congress, and the State its Legislature. The Nation has its federal judiciary, and the State has its system of courts. In many other respects the pupil will find a close analogy between the State and Federal government. If he will make himself well acquainted with the Constitution of the United States, he can easily acquire a general knowledge of any State government by attentively reading its constitution. He will find that in many particulars the State constitutions are not only similar to each other, but in numerous instances bear a striking resemblance to the Constitution of the Federal Government.

Although six specific forms of government have been defined, they are either monarchical or democratic in character, or a mixture of these. Patriarchal *Governments* and theocratic are definite forms of the *Compared.* monarchical. The rule of an empire by one man is of the same class. God governed the Israelites by direct authority; the father governs his family by direct command; and the will of the absolute sovereign is the law for his millions of subjects. These several types of the monarchical form are called by different names, because thereby the exact relations of sovereign to subjects are more clearly expressed.

The democratic form is a government “*of* the people, *by* the people, and *for* the people.” A republican government might be defined by the same words. The sovereignty is in the people, but is exercised indirectly. They choose their own officers, law-makers, and law-interpreters. In a few instances the officers are chosen by intermediate authority ; but this method is sanctioned by the people.

A government purely aristocratic, as generally defined, can hardly be found in history, certainly not of long continuance. This element may be combined with the monarchical or democratic, and it usually is ; but as an independent government it must be a usurpation. It excludes all idea of authority except what is assumed : for, if the aristocratic rulers derive their power from the sovereign of a kingdom or an empire, the monarchical form appears ; if, on the other hand, they are elected or appointed by the people, directly or indirectly, the democratic form appears. In either case there is not an *independent* aristocracy, but one that is dependent on the form to which it is attached or allied.

In all monarchies of modern times, whether absolute or limited, this element is present. In Great Britain, for instance, there is a titled nobility, distinct from the royal family. It consists of several orders : dukes, marquises, earls, viscounts, and barons. Orders of nobility sit in the shadow of every earthly throne. Without them, royalty itself must languish and die.

POLITICAL MAXIMS.

1. The good of the governed is the only true object of every government.
2. That government under which the rights of all persons are not equally protected is organized injustice.

3. Under a genuine republican government there are no political distinctions of birth.
4. An intelligent people cannot live under a government in which they have no voice.
5. For a moral and intelligent people a republican government is the best in the world ; for an *immoral* and *ignorant* people it is the worst.
6. The Constitution of the United States should be carefully studied by every American citizen.
7. Every citizen should be familiar with the constitution of his own State.
8. Every enfranchised citizen should exercise his right of suffrage.
9. No citizen should approach the ballot-box ignorant of the question to be decided by his vote.
10. The Constitution of the United States lies at the foundation of all political knowledge relating to this country.
11. Schoolhouses and schoolmasters are forts and garrisons to a republic.
12. In the United States the ballots of ignorant voters are more to be dreaded than the muskets of foreign soldiers.

QUESTIONS.

1. What does government mean ?
2. What examples are given ?
3. What could we do without government ?
4. Why would we be unsafe without it ?
5. What are the advantages of government ?
6. What does the word " government " here signify ?
7. What about the forms of government ?
8. Who govern the most ignorant nations ?
9. How do despots rule ?
10. What does history show as to ignorance ?
11. What does the statesman know ?
12. What is said of the schoolhouse ?
13. What is said of the government of the United States ?
14. On what does its safety depend ?
15. What is said of the ignorant voter ?
16. What forms of government are known in history ?
17. In what is the first founded ?
18. What is said of it ?

19. Where does it now exist?
20. What is said of a theocratic form?
21. When and over whom did it prevail?
22. Where did the Israelites receive the law?
23. What is said of a monarchy?
24. By what terms may monarchs be known?
25. How are monarchies divided?
26. What is an absolute monarchy?
27. What countries are despotisms?
28. What is a limited monarchy?
29. What is the limit of the sovereign's power over it?
30. What may such a government be called?
31. What is said of a sovereign's title to his throne?
32. What example is given?
33. What is said of William the Conqueror?
34. What did the battle of Hastings decide?
35. What is an elective monarchy?
36. What is an aristocratic government?
37. Where have such existed?
38. What is said of it in Europe and in the United States?
39. What is the democratic form?
40. How are the qualifications to vote defined?
41. Where has the democratic form prevailed?
42. What is a republican government?
43. What is that of the United States?
44. What is said of State governments?
45. What changes in the States on entering the Union?
46. What is the Federal Government?
47. How are the State and general government compared?
48. What are the two *principal* forms of government?
49. What are the others?
50. What is said of the democratic-republican form?
51. What of the aristocratic?
52. What is said of this element in Great Britain?
53. What are orders of nobility there?

CHAPTER II.

LESSON II.—SETTLEMENT OF AMERICA.

A COLONY consists of a company of people who associate together for mutual advantage in the settlement of a remote country. Having a common object, they generally are induced to thus unite on account of similarity of views on religion, politics, or social interest. They may migrate from a single country or nation, or from different countries. A settlement thus formed is called a colony, and this mode of settlement is called colonization. *Colony defined.*

A colony usually adopts local laws for its own convenience, adapted to its circumstances, but subject to the general laws and government of the country from which the people of the colony emigrated. If they came from England, they would be called an English colony ; if from Spain, they would be called a Spanish colony ; thus taking the name from the country in which the inhabitants had formerly resided.

Different parts of the great North American continent were colonized in the manner just named. Five hundred years ago nothing was known of America to the Europeans. It had not then been discovered. When Columbus first landed on these shores, the country was one vast wilderness, inhabited by rude and ignorant savages, having no knowledge of law, government, religion, science, literature,

or art. They had no churches, no schools, no gardens, no farms. They lived by hunting and gathering fruits and roots of spontaneous growth. They clothed themselves with the skins of beasts. As to their food, *The American Colonies.* they knew not how to preserve it; made no provision for the future, but were dependent on each day's efforts for each day's supply. Hence starvation might overtake them any day. They lived in rude huts and wigwams, and slept on the bare ground through all seasons of the year.

On account of religious and political intolerance and persecution in the countries of Europe, and other home grievances, thousands of people left their native country in the Old World and migrated to the New. Here they planted colonies all along the coast of the Atlantic in North America. These settlements were for the most part made by English subjects, and in the course of time the Colonies were all brought under the authority of the British Crown.

When territory is found uninhabited at the origin of new settlements therein, it is usual to adopt the laws of the nation from which the settlers have migrated, so far as they may be found applicable to the new condition of things.

Although this country was occupied by a wild, uncultivated, and savage population, without law or government in any civilized sense, the Colonists chose to consider themselves as settling an uninhabited territory. As a large proportion of the new settlers of these Colonies were from England, they would naturally lean to the jurisprudence of that country.

It must be remembered, also, that the Colonies were nearly all settled under the patronage and favor of Great Britain. Those that were not soon came under the jurisdiction of the British Crown.

The growth of the Colonies was slow and gradual, extending through a period of from one hundred to one hundred and fifty years. The following are the dates of their first permanent settlements:—

Virginia.....	1607	Rhode Island.....	1636
New York.....	1614	Delaware.....	1638
Massachusetts.....	1620	Pennsylvania.....	1643
New Jersey.....	1620	North Carolina.....	1663
New Hampshire.....	1623	South Carolina.....	1670
Maryland.....	1634	Georgia.....	1733
Connecticut.....	1635		

Over these Colonies the British Government maintained supremacy for more than a hundred years. But the latter part of the eighteenth century the Colonies became so disaffected towards the government of England, on account of what they regarded as oppressive measures of the British Parliament, that they were induced to declare themselves independent of the authority of that country. This formal act of separation is called the Declaration of Independence. It was made in a congress composed of delegates from all the Colonies, on the fourth day of July, in the year one thousand seven hundred and seventy-six.

In this declaration the Colonies, by their representatives, proclaimed themselves free and independent States. They abjured all allegiance to the British Crown, and assumed, that, as free and independent States, they possessed all the attributes and prerogatives of a sovereign and independent nation.

The Colonies had been at war with Great Britain for more than a year before this declaration. The war continued seven years longer, and resulted in the complete triumph of the American cause. Great Britain acknowledged the independence of

the United States, and peace between the two countries was proclaimed in one thousand seven hundred and eighty-three.

QUESTIONS.

1. What is a colony?
2. What does a colony usually do?
3. From what does a colony take its name?
4. What was the condition of the country when Columbus first landed in America?
5. What is said of the savages?
6. Why did people leave the Old Country for the New?
7. What did they do here?
8. By whom were most of the settlements made?
9. Under whose authority were they?
10. What is the practice on finding new territory?
11. What did the Colonists consider the territory which they settled?
12. Under whose patronage were the Colonies established?
13. What is said of the growth of the Colonies?
14. What was the date of the settlement of each?
15. How long did the British Government maintain supremacy over these Colonies?
16. What occurred the latter part of the eighteenth century?
17. What is this formal act called in history?
18. By whom and when was it made?
19. What did the Colonies proclaim in this declaration?
20. How long did the war continue?
21. When was peace proclaimed between the two countries?

CHAPTER III.

LESSON III. — ARTICLES OF CONFEDERATION.

AFTER the Declaration of Independence was passed, a plan was adopted by which to unite the States as one nation. In the month of September, 1776, *The Articles of Confederation*, and caused them to be sent to the several States, asking for their ratification of the same. These articles were not to be binding between the States ratifying them until they should receive the approval of all.

In July, 1778, the ratification of all the States had been obtained, except Delaware, New Jersey, and Maryland. The assent of New Jersey was given Nov. 25 of the same year; of Delaware, Feb. 22, 1779; and of Maryland, March 1, 1781. On the second day of March, 1781, Congress assembled under the Confederation.

But the Revolutionary War, which began in 1775, had continued all this time; during which the States had been united by the ties of a common interest, by the sense of a common danger, and by the necessities of a common cause, having no written bond of union. In short, they were held together by their fears.

The following are some of the peculiarities that distinguish the Articles of Confederation from the present Constitution.

1. The Confederation was declared to be a firm league of friendship between the several States.
2. Delegates to Congress were to be appointed annually, in such manner as the Legislature of each State might direct.
3. The power was reserved to the States to recall their delegates, or any of them, within the year, and to send others in their places for the remainder of the year.
4. No State was allowed representation in Congress by less than two nor more than seven members.
5. No person was eligible to a seat in Congress for more than three, in any term of six years.
6. Each State had to maintain its own delegates in a meeting of the States, and while as members of the committee of the States.
7. In determining questions in the Congress, each State had but one vote.
8. All charges of war and other expenses, incurred for the common defense and general welfare, were to be defrayed out of a common treasury.
9. The treasury was to be supplied by the several States, in proportion to the value of all lands, and the improvements and buildings thereon, within each State, granted to or surveyed for any person, to be estimated according to the direction of Congress.
10. Congress was to send and receive ambassadors.
11. Congress was the tribunal of last resort, on appeal, in all disputes and differences between two or more States concerning boundary, jurisdiction, or any other cause whatever.
12. Congress was the tribunal to decide all controversies concerning the private right of soil claimed under different grants of two or more States, under certain limitations.
13. Congress was to commission all the officers of the United States.
14. Congress had authority to appoint a committee, to sit during the recess of that body, to be denominated "a Committee of the States," and to consist of one delegate from each State.
15. Canada, acceding to the Confederation, and joining in the measures of the United States, was to be admitted into the Union.
16. The Union was to be perpetual.
17. No provision was made for any such officer as president.
18. There was no national judiciary.
19. Congress consisted of but one House.

By reference to the foregoing synopsis of peculiarities in the Articles of Confederation, it is not remarkable, that, as a constitution for the country, they soon proved a failure. They were hastily prepared, and, public attention being almost wholly absorbed on the great events of the day, they did not receive that critical investigation which their importance demanded. As a plan of union, they were never entirely satisfactory to the leading statesmen of that day.

It was but five or six years after their ratification by all the States before decisive steps were taken for their revision. Their insufficiency had become so completely demonstrated that a wide-spread conviction prevailed that they must either be revised or abandoned, altogether.

QUESTIONS.

1. What was done after the Declaration of Independence?
2. What was proposed by Congress?
3. When did the States ratify the Articles of Confederation?
4. When did they go into operation?
5. How were the States united during the war?
6. What were some of the peculiarities of the Articles of Confederation?

CHAPTER IV.

LESSON IV. — ORIGIN OF THE CONSTITUTION.

ON the 21st of January, 1786, the Virginia Legislature took the first step which finally led to the formation of the present Constitution of the United States.

The First Call for a Convention. That day they passed the following resolution: —

“*Resolved,* That Edmund Randolph, James Madison, Jr., Walter Jones, St. George Tucker, and Meriweather Smith, Esqs., be appointed commissioners, who, or any three of whom, shall meet such commissioners as may be appointed in the other States of the Union, at a time and place to be agreed on, to take into consideration the trade of the United States;

“To examine the relative situations and trade of said States;

“To consider how far a uniform system in their commercial regulations may be necessary to their common interests and their permanent harmony;

“And to report to the several States such act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same.”

The time and place of meeting were left to the commissioners, and they fixed on the first Monday of September following, at Annapolis, Md. In response to the action

of Virginia, but eight States appointed commissioners to attend the meeting. When the time of meeting arrived, only five States were represented: New York, Pennsylvania, Virginia, Delaware, and New Jersey.

The meeting, it had become evident, must prove a failure; for so few commissioners were present, it was thought to be unwise to proceed to the business for which the meeting was called. *But Five States respond.*

But they were reluctant to adjourn without taking some forward step.

The New Jersey deputation had a commission extending its object to a general provision for the "exigencies of the Union." Acting on this suggestion, a recommendation for this enlarged purpose was reported by a committee to whom the subject had been referred.

That report was written by Alexander Hamilton of New York, and addressed to the Legislatures of the States represented in the convention.

This report was an able, lucid, and elaborate document, recommending another convention of deputies from all the States, to meet on the second Monday of May following, 1787, in the city of Philadelphia. A copy of the report was also sent to Congress.

Virginia again took the lead, and was the first to appoint deputies to the proposed Philadelphia Convention, among whom was their most distinguished citizen, George Washington.

Feb. 21, 1787, a resolution was moved and carried in Congress, recommending a convention to meet in Philadelphia at the time suggested in the report, "for the purpose of revising the Articles of Confederation, and reporting to Congress and the several State Legislatures such alterations and provisions therein as shall, when agreed to in Con- *Congress recommends a Convention.*

gress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union."

But on account of the uprising, known as the Shays' Rebellion, in Massachusetts, which had occurred within the last year or two, the deranged condition of the finances of the country, and sharp controversies, verging on open hostility, between several of the States, the public mind was drifting in the right direction to favor the recommendation of Congress. The States promptly acted through their Legislatures, and delegates were appointed to meet in the proposed convention to revise the Articles of Confederation.

On the day appointed, however, the second Monday in May, 1787, there was by no means a full representation *The Constitutional Convention* of the States, there being present but twenty-nine delegates. They did not immediately proceed to business, therefore, but adjourned from day to day, waiting for a fuller delegation, until Friday, the 25th. On that day they organized by unanimously choosing George Washington president of the convention.

The daily sessions of that body continued until the 17th of September, four months and three days from the day appointed for their meeting. Their sessions were secret (they sat with closed doors); and, although the new Constitution was soon published to the people, the daily proceedings of the convention were not known until more than fifty years after its labors were ended.

James Madison of Virginia, afterwards President of the United States, was a member of the convention. He was a very ready writer of shorthand, and took copious notes of the proceedings. These notes were published by authority of Congress over fifty years thereafter, and several years subsequent to their author's death. They

are known in their published form, three large volumes, as "The Madison Papers."

When their labors were finished, a copy of the new Constitution was sent to Congress, then in session, with the recommendation that it should be presented to the people for ratification by State conventions called for that purpose.

In response to the recommendation of the convention, Congress took the necessary steps to have the new Constitution transmitted to the several State Legislatures, in order to be submitted to a convention of delegates chosen in each State by the people thereof.

By the terms of that document, the ratification of the conventions of nine States was declared sufficient for its establishment between the States so ratifying the same.

Three States ratified it before the close of the year 1787, and eight more by the 26th of July, 1788; so that, in less than one year from the time of its submission to the people, a sufficient number of States had accepted it as the fundamental law of the land to warrant the commencement of operations under it.

Under the direction of Congress, representatives were elected by the people, and senators by the State Legislatures, and electors of President and Vice-President were chosen. On Wednesday, the fourth day of March, 1789, the first Constitutional Congress met, and proceedings were commenced under the new organization soon after.

In those days travel was far more difficult than in these later days of railroad facilities. A quorum in Congress, therefore, did not assemble until the 6th of April, at which time the votes for President were counted; and it was found that George Washington was unanimously elected. John

*The
New Government
organized.*

Adams of Massachusetts was elected Vice-President. Thus the new government was now in full operation.

QUESTIONS.

1. What did Virginia do Jan. 21, 1786?
2. Who were the commissioners appointed?
3. What time and place did they select?
4. How many States appointed commissioners besides Virginia?
5. How many and what States were represented in the meeting?
6. Why did not the meeting proceed to business?
7. What course did they take?
8. What subject was referred to a committee?
9. By whom was that report written?
10. What was the substance of the report?
11. What course did Virginia take?
12. What was done in Congress about the matter?
13. What circumstances caused a favorable change in the public mind?
14. What course did the States take?
15. How many delegates appeared at the time and place of meeting?
16. When did the convention organize?
17. Who was chosen president?
18. How long did the session continue?
19. How were the sessions held?
20. What is said of Mr. Madison?
21. What was done when the convention finished its work?
22. What course did Congress take?
23. How many States ratified it in 1787?
24. How many in 1788?
25. What proceedings followed these ratifications?
26. When did the first Congress meet?
27. Who was chosen the first President?

CHAPTER V.

LESSON V.¹—CONSTITUTION OF THE UNITED STATES OF AMERICA.

NOTE.— A figure in parentheses is placed at the beginning of each clause of this copy of the Constitution, for convenience of reference in the following pages.

- (1) PREAMBLE. — We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.
- (2) ARTICLE I. *Section 1.* — All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.
- (3) *Section 2.* — 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.
- (4) 2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and

¹ The teacher should require the pupil to become so familiar with this lesson that he will be able to answer the questions at the end of it.

who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

- (5) 3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, 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. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.
- (6) 4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.
- (7) 5. The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.
- (8) *Section 3.* — 1. The Senate of the United States shall be composed of two senators from each State, chosen by the Legislature thereof for six years; and each senator shall have one vote.
- (9) 2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third

class, at the expiration of the sixth year ; so that one third may be chosen every second year : and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

- (10) 3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.
- (11) 4. The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided.
- (12) 5. The Senate shall choose their other officers, and also a president *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.
- (13) 6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside ; and no person shall be convicted without the concurrence of two thirds of the members present.
- (14) 7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States ; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.
- (15) *Section 4.* — 1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the Legislature thereof ; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.
- (16) 2. The Congress shall assemble at least once in

every year ; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

- (17) *Section 5.* — 1. Each House shall be the judge of the elections, returns, and qualifications of its own members ; and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.
- (18) 2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.
- (19) 3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy ; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.
- (20) 4. Neither House, during the session of Congress, 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.
- (21) *Section 6.* — 1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases except treason, felony, 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.
- (22) 2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time ; and no

person holding any office under the United States shall be a member of either House during his continuance in office.

(23) *Section 7.* — 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

(24) 2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: 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 on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and, if approved by two thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten 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 Congress, by their adjournment, prevent its return; in which case it shall not be a law.

(25) 3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8. — The Congress shall have power, —

- (26) 1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare, of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;
- (27) 2. To borrow money on the credit of the United States;
- (28) 3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes;
- (29) 4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;
- (30) 5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;
- (31) 6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
- (32) 7. To establish post offices and post roads;
- (33) 8. To promote the progress of science and useful arts by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;
- (34) 9. To constitute tribunals inferior to the Supreme Court;
- (35) 10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
- (36) 11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
- (37) 12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
- (38) 13. To provide and maintain a navy;
- (39) 14. To make rules for the government and regulation of the land and naval forces;
- (40) 15. To provide for calling forth the militia to execute

the laws of the Union, suppress insurrections, and repel invasions ;

(41) 16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress ;

(42) 17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States ; and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings ; and

(43) 18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

(44) *Section 9.* — 1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight ; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

(45) 2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

(46) 3. No bill of attainder, or *ex post facto* law, shall be passed.

(47) 4. No capitation or other direct tax shall be laid, unless in proportion to the *census* or enumeration hereinafore directed to be taken.

(48) 5. No tax or duty shall be laid on articles exported from any State.

- (49) 6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another ; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another.
- (50) 7. No money shall be drawn from the treasury but in consequence of appropriations made by law ; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.
- (51) 8. No title of nobility shall be granted by the United States ; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.
- (52) *Section* 10. — 1. No State shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make any thing but gold and silver coin a tender in payment of debts ; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts ; or grant any title of nobility.
- (53) 2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws ; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.
- (54) 3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.
- (55) *ARTICLE* II. *Section* 1. — 1. The executive power shall be vested in a President of the United States of

America. He shall hold his office during the term of four years, and, together with the Vice-President chosen for the same term, be elected as follows:—

- (56) 2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[*The following paragraph (57) is the Twelfth Article of Amendment, and supersedes the clause originally inserted here (see TOWNSEND'S "Analysis of Civil Government").*]

- (57) 3. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of

a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed ; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President. A quorum for the purpose shall consist of two thirds of the whole number of senators ; and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

- (58) 4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes ; which day shall be the same throughout the United States.
- (59) 5. No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President ; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.
- (60) 6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President ; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly

until the disability be removed, or a President shall be elected.

(61) 7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

(62) 8. Before he enter on the execution of his office, he shall take the following oath or affirmation:—

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

(63) *Section 2.* — 1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

(64) 2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

(65) 3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate

by granting commissions, which shall expire at the end of their next session.

- (66) *Section 3.* — He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.
- (67) *Section 4.* — The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.
- (68) *ARTICLE III. Section 1.* — The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office.
- (69) *Section 2.* — 1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

- (70) 2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.
- (71) 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed: but, when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.
- (72) *Section 3.* — 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.
- (73) 2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.
- (74) *ARTICLE IV. Section 1.* — Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.
- (75) *Section 2.* — 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.
- (76) 2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

- (77) 3. No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.
- (78) *Section 3* — 1. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.
- (79) 2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States ; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.
- (80) *Section 4*. — The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature or of the Executive (when the Legislature cannot be convened), against domestic violence.
- (81) ARTICLE V. — The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress : provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner

affect the first and fourth clauses in the ninth section of the first article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

(82) ARTICLE VI. — 1. All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

(83) 2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

(84) 3. The senators and representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution ; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

(85) ARTICLE VII. — The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION.

The following are the Articles of Amendment which have been ratified and adopted since the year 1790, and are to all intents and purposes a part of the Constitution of the United States.

(86) ARTICLE I. — Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

(87) ARTICLE II. — A well-regulated militia being neces-

sary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

- (88) ARTICLE III. — 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.
- (89) ARTICLE IV. — The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- (90) ARTICLE V. — No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
- (91) ARTICLE VI. — In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.
- (92) ARTICLE VII. — In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise reexamined in any court of the United States than according to the rules of the common law.
- (93) ARTICLE VIII. — Excessive bail shall not be re-

quired, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(94) ARTICLE IX. — The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

(95) ARTICLE X. — The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(96) ARTICLE XI. — The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

[As the subject-matter of the Twelfth Article of Amendment refers entirely to the election of the President and Vice-President of the United States, it is inserted in Article II. of the Constitution, constituting paragraph (57), and is omitted here.]

(97) ARTICLE XIII. — 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

(98) ARTICLE XIV. — 1. 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. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

(99) 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United

States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

(100) 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

(101) 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned.

But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(102) ARTICLE XV. — 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State, on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

CHRONOLOGY OF THE AMENDMENTS TO THE CONSTITUTION.

The first ten Articles of Amendment were proposed by Congress in 1789, at their first session; and, having received the ratification of the Legislatures of three fourths of the several States, they became a part of the Constitution, Dec. 15, 1791.

The First Ten Amendments.

The Eleventh Article was proposed by Congress in 1794. President Adams declared in his message, Jan. 8, 1798, that it had received the ratification of the constitutional number of States, and was therefore a part of the fundamental law of the land.

The Eleventh Amendment.

The Twelfth Article of Amendment was proposed by Congress at their session in 1803, and received the ratification of the requisite number of States during the following year, and became part of the Constitution of the United States.

The Twelfth Amendment.

The Thirteenth Article of Amendment was proposed at the second session of the Thirty-eighth Congress, passing the Senate in 1864, and the House in 1865. William H. Seward, then secretary of state, officially announced to the country, Dec. 18, 1865, that it had been ratified by three fourths of the States, and was therefore a part of the supreme law of the land.

The Thirteenth Amendment.

The Fourteenth Article of Amendment was proposed by Congress in 1866. William H. Seward, then secretary of state, announced July 28, 1868, that it had been ratified by the Legislatures of the requisite number of States, and had therefore become a part of the Constitution of the United States.

The Fourteenth Amendment.

The Fifteenth Article of Amendment was proposed by Congress in 1869. Hamilton Fish, then secretary of

The Fifteenth Amendment. state, announced March 30, 1870, that it had been ratified by the requisite number of States, and was therefore a part of the Constitution of the United States.

QUESTIONS.

1. In the Preamble, how many reasons are given for the establishment of the Constitution ?
2. In what order are they given ?
3. Into how many articles is the original Constitution divided ?
4. How many sections in the first article ?
5. In the first section how many clauses ?
6. How many in Section 2 ?
7. How many in each of the other sections of this article respectively ?
8. How many sections in Article II.?
9. How many clauses in Section 1 of this article ?
10. How many clauses in Section 2 of Article II.?
11. How many in each of Sections 3 and 4 ?
12. How many sections in Article III.?
13. How many clauses in Section 1 ?
14. How many in Section 2 ?
15. How many in Section 3 ?
16. How many sections in Article IV.?
17. How many clauses in Section 1 ?
18. How many in each of the others respectively ?
19. How many sections and clauses in Article V.?
20. How many clauses in Article VI.?
21. How many clauses in Article VII.?
22. How many amendments to the Constitution have been adopted ?
23. When were the first ten articles declared to be a part of the Constitution ?
24. When was the eleventh ?
25. When the twelfth ?
26. When the thirteenth ?
27. When the fourteenth ?
28. When the fifteenth ?
29. Into how many paragraphs are the Constitution and Amendments divided ?

BLACKBOARD EXERCISE.

BRANCHES.

- I. Legislative (Law-making).*
- II. Executive (Law-enforcing).*
- III. Judicial (Law-interpretine).*

CHAPTER VI.

LESSON VI. - BRANCHES OF GOVERNMENT.

THE constitution of any country, whether written or traditional, is the fundamental law of that country ; that is, *Constitution the Supreme Law.* the highest law by which the country professes to be governed. If any law is made in violation of that fundamental law, it is of no force whatever, and is, to all intents and purposes, null and void. The history of different countries shows that Legislatures have sometimes attempted to pass such laws, but they have been set aside and declared inoperative by the law-interpreting branch of the government.

All free government is administered through three distinctive and separate branches. These are : 1. The legislative, or law-making power ; 2. The executive, or law-enforcing power ; 3. The judicial, or law-interpreting power. In the United States the first is vested in a Congress, which consists of a Senate and House of Representatives ; the second, in a President of the United States ; and the third, in the Federal Courts of Law.

No free government can exist on earth in which the administration of its powers and functions is not distributed. If a single individual may assume to make the laws, to execute and interpret the same, he becomes a despot, and his government a despotism. Such a concentration

of authority in one man is utterly inconsistent with the liberty of his people.

If this combination of power be centered in any number of persons, the character of the government will be the same. One or more persons might safely be trusted with any one of these high prerogatives ; but the danger consists in the concentration of all in the same hands.

All writers on free government agree that the legislative, the executive, and the judicial powers should be kept as separate and distinct as possible. *Branches not entirely Independent.* It is hardly possible, however, for human wisdom to devise a plan by which they can be kept entirely separate in the administration of government.

This has been attempted by the wisest and best of minds, but has failed. Not one of all the American States has succeeded ; though, in some instances, they may have done all that finite wisdom could accomplish. But in all cases, without a single exception, there has been a partial mixture of these powers.

In several of the States, for instance, the executive is elected by the Legislature if no one receives a majority vote by the people. In South Carolina, for some time, he was elected by the Legislature without any attempt at an election by the people.

In nearly all of the States the judicial officers are impeachable by one or both branches of the Legislature. In some of the States the officers of the judiciary are appointed by the governor and the Legislature, or one branch of that body.

In some the governor may veto any act passed by the Legislature ; after which, in order that the act so vetoed may become a law, it must be repassed by a vote of two thirds of both Houses.

In some States the judicial officers are elected by the people, but removable on the address of one or both branches of the Legislature. In others they are removable by one or both branches, on the address of the executive. In still others the judicial officers are appointed by one or both branches of the Legislature, and removable by one branch on impeachment by the other.

QUESTIONS.

1. What is meant by the constitution of a country?
2. Of what force is a law that is contrary to the constitution?
3. What have Legislatures sometimes done?
4. By whom are such laws declared inoperative?
5. Through how many and what branches are free governments administered?
6. In whom are these branches respectively vested in the United States?
7. What is the distribution of governmental powers?
8. What is said of a despot and despotism?
9. In what do all writers on free government agree?
10. What difficulty is here mentioned?
11. What is said of the separation of these powers in the American States?
12. How are judicial officers impeachable in most of the States?
13. How are the officers of the judiciary appointed in some of the States?
14. How are the judicial officers elected, and how removable in some of the States?

LESSON VII. — BRANCHES OF GOVERNMENT, *Continued.*

In fact, there is no such thing as a complete and absolute separation of the three departments from each other. And all that is intended, in speaking of the three branches being kept separate and distinct, is that the powers and

duties properly belonging to any one branch or department shall not be interfered with or administered by either of the others ; that neither shall possess a controlling influence over the others in the performance of their respective duties.

In order that there may be official independence, it is necessary "that the legislative, executive, and judiciary powers shall be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the Constitution in one indissoluble bond of unity and amity."

The Constitution of the United States aims to separate the three departments as widely as possible, and to render them as independent, the one of the others, as the complicated nature of the subject will permit. The government of the United States is a representative government ; and there is far less danger to liberty arising from the partial mixture of these powers in this country than in a government of less direct responsibility to the people.

These three branches of the American government are located and exercised in the city of Washington, the capital of the nation. The President resides *The Capital City.* there during the term for which he is elected. He lives in a mansion known as the White House, built and kept constantly furnished at the expense of the nation. In this mansion he exercises the duties of his office during the period of his administration.

In another part of the city is an immense building covering several acres of ground, called the Capitol of the nation, erected at a cost of some twelve millions of dollars. In this magnificent edifice are numerous rooms and offices for the convenience of the government. But by far the largest is that which is known as the House of Representa-

tives. The assembly of men who occupy this hall during the session of Congress are called representatives. They are elected by the people of their respective congressional districts in the several States, and are sent here to assist in making the laws of the nation. No bill can become a law until it has received the approval of a majority of this body of men. By the theory of our government, all the people of the several States are present in this assembly in the person of their respective representatives. When all the representatives are present, the number is more than three hundred ; and these constitute one division or portion of the lawmaking power.

In another part of this immense edifice is a much smaller room, known as the Senate Chamber. This is occupied by the senators. Of these there are two from each State, whether the State be large or small ; and therefore, when the Senate Chamber is full, there are ninety-six members, as we have at the present time forty-eight States in the Union.

The senators are not elected by direct vote of the people, but are chosen by the State Legislatures for the term of six years. No bill can become a law unless approved by a majority of the votes of this body as well as the House of Representatives. Thus each House is so far a check upon the other against hasty legislation as to insure full and careful deliberation in the passage of the laws.

In still another part of the Capitol is the Supreme Court Room. In this room the judges of the Supreme Court hold one term a year for the correct interpretation and application of the laws of the land. If any unconstitutional law is passed by Congress, and sanctioned by the President, this body has the power to declare that law utterly void, after which it is a dead letter in the statute

book. Thus each branch of the government exercises a salutary restraint on the others, effectually securing the safety of human rights.

QUESTIONS.

15. What is intended by a complete separation of these branches or powers?
16. What is necessary to official independence?
17. With respect to this, what is the aim of the Constitution of the United States?
18. What kind of a government is that of the United States?
19. Where are the branches of our government located and exercised?
20. What is the name of the house in which the President resides?
21. What do we find in another part of the city?
22. Which is the largest room of the Capitol?
23. By whom is this room occupied?
24. By whom are they elected, and for what purpose?
25. What is the theory of our government with respect to these persons?
26. Where is the Senate Chamber?
27. How many senators are there from each State?
28. How many in all?
29. By whom are these senators elected?
30. How is hasty legislation prevented?
31. What other room in the Capitol is mentioned?
32. By whom, and for what purpose, is this room occupied?

CHAPTER VII.

LESSON VIII.—PREAMBLE TO THE CONSTITUTION.

WE, the people of the United States,

1. In order to form a more perfect Union,
2. Establish justice,
3. Insure domestic tranquillity,
4. Provide for the common defense,
5. Promote the general welfare, and
6. Secure the blessings of liberty to ourselves and our posterity,

Do ordain and establish this Constitution for the United States of America.

The Preamble is no part of the Constitution, but is a key to that document. The Preamble sets forth the purposes

The Purpose of the Constitution. and objects for which the Constitution was formed, and to secure which it was offered to the people for their ratification and adoption.

As stated elsewhere, the union of the States had been very imperfectly formed, and even more imperfectly sustained. It was entirely deficient in every particular mentioned in the Preamble.

The following were the more prominent defects of the Union as it existed at the time this Constitution was formed, as given by an eminent jurist of a later day:—

- 1st, There was an utter want of all coercive authority

in the Continental Congress to carry into effect any of their constitutional measures.

2d, There was no power in the Continental Congress to punish individuals for any breach of their enactments.

3d, They had no power to lay taxes, or *The Defects of the Confederation*. The power over taxes was expressly and exclusively reserved to the States.

4th, They had no power to regulate commerce, either with foreign nations or among the several States. It was left, with respect to both, exclusively to the management of each particular State.

5th, As might be expected, the most opposite regulations existed in different States; and there was a constant resort to retaliatory legislation from their jealousies and rivalries in commerce, in agriculture, or in manufactures. Foreign nations did not fail to avail themselves of all the advantages accruing from this suicidal policy, tending to the common ruin.

6th, "For want of some singleness of power, — a power to act with uniformity, and one to which all interests could be reconciled, — foreign commerce was sadly crippled, and nearly destroyed."

7th, The country was deeply in debt, without a dollar to pay, or the means even to draw a dollar into the public treasury; and what money there was in the country was rapidly making its way abroad.

8th, Great as these embarrassments were, the States, full of jealousy, were tenaciously opposed to making the necessary concessions to remedy the great and growing evil. All became impressed with the fear that, unless a much stronger national government could be instituted, all that had been gained by the Revolutionary struggle would soon be lost.

To these defects may be added the following also :—

1st, The Congress consisted of but one House ; and the States, large and small, had equal power in that body. When a bill had passed that House, it was the law of the land.

2d, There was no executive officer to enforce the laws, or whose sanction was required in making the laws.

3d, There was no national judicial tribunal to give construction and interpretation to the laws.

4th, Congress had no power to enforce obedience to treaties, although they could make them, and recommend their observance.

5th, They could borrow money pledging the faith of the Union, but had no positive means of raising a single dollar.

6th, They could declare war, but could not coerce into the field a single soldier.

QUESTIONS.

1. What is the Preamble to the Constitution ?
2. What does the Preamble set forth ?
3. What is said of the formation of the Union ?
4. What were the more prominent defects of the Union at the time of the formation of the Constitution, as given by an eminent jurist ?
5. What other defects are mentioned ?

LESSON IX. — PREAMBLE, *Continued.*

The first object expressed in the Preamble is to form a more perfect Union ; that is, a more perfect Union than *A more Perfect Union.* had existed under the Confederation. The government under the former system had been found wholly defective. The Union was so imperfect as to be almost unworthy of the name.

As already stated, under the Confederation there was no national judiciary, or system of national courts. The only means of legal redress was through the State courts; and the decisions of the courts of one State were often in direct conflict with the decisions of courts of neighboring States. The necessity of a court of higher authority, whose decisions should command the respect of the nation at large, was everywhere felt and acknowledged. The State Legislatures were often led to pass laws favoring their own immediate and respective localities, and their State courts were too ready to give them their sanction.

The third object, as explained in the Preamble, was to insure domestic tranquillity. This means peace among the States. For several years some of the States had been involved in controversies with each other; and in a few instances these domestic dissensions led to bloodshed, and threatened the most alarming consequences. Troops were called out by one State to meet the hostile forces of another in battle array; and even the General Government seemed too weak for the emergency. Disputes of this character, by the Articles of Confederation, were to be left to Congress; but this body was not always in session, and, when it was, it did not possess the requisite power, and was slow to exercise what it had.

The want of some common tribunal that could act with promptness and commanding authority was everywhere admitted. A liberty that was not clothed with authority to command peace at home was clearly more of a curse than a blessing. One of the purposes, therefore, of the Constitution was the creation of ample power to insure domestic tranquillity.

The common defense was not properly provided for

under the Confederation. A people not prepared for war, and known not to be, will constantly be liable to aggressions from neighboring nations. On the contrary, a nation known to be prepared will be quite unlikely to be attacked. A weak nation is never formidable, and will never command the respect of its neighbors.

Congress, under the Confederation, as we have seen, could recommend, but could not enforce, measures for the *Common Defense.* common defense. They could not even declare war, nor exercise any of the war powers, without the concurrence of nine of the thirteen States ; nor even when they had declared war under these restrictions, should they do so, could they force into service a single soldier. Sound statesmanship demanded, therefore, that something should be done to provide more effectually for the common defense. By reference to the war power in the Constitution, it will be seen that this provision has been made.

To promote the general welfare is another object specified in the Preamble. This duty properly devolves on every national sovereignty. It is, indeed, *General Welfare.* or should be, the primary purpose of every government. The individual States of America had not the means, nor have they now, to secure this desirable object. It requires larger resources than belong to a single State.

From the poverty of language it would be impossible to specify, within any convenient limits, all the powers which a government like that of the United States might at some time find it necessary to exercise, and under some possible emergencies.

And although fears may be indulged in some quarters, that, under a clause of such broad signification, some of the departments, especially the legislative, and perhaps

the executive, may overreach and go beyond their prerogatives, yet the ballot is the remedy in the one case, and impeachment in the other.

“To secure the blessings of liberty to ourselves and our posterity,” is the closing language of the Preamble. It is an appropriate climax. It briefly expresses the whole purpose of human gov-
*To secure
Liberty.*
 ernment.

“Give me liberty, or give me death!” exclaimed the immortal orator of the Revolution. Without political and religious liberty, life itself would become valueless, and existence a burden: with it, we may have all that is valuable in earthly institutions; for, if a nation enjoys liberty, its citizens have the means of enjoying every other earthly blessing.

But the patriotic authors of the Constitution were not content with this sacred boon for themselves merely: they were earnest to perpetuate this inestimable blessing to the remotest posterity.

QUESTIONS.

6. What is the first object expressed in the Preamble?
7. What were the only means of legal redress?
8. What is said of the necessity of a higher court?
9. What were the State Legislatures often led to do?
10. What is the third object expressed in the Preamble?
11. What had been the condition of the States for several years?
12. To whom were disputes of this character to be referred?
13. What is said of the ability of Congress to settle them?
14. What want was felt on that account?
15. What is the fourth object mentioned in the Preamble?
16. What is said of the necessity of being prepared for war?
17. What is said of the weakness of Congress under the Confederation?
18. What is the fifth object mentioned in the Preamble?
19. What should be the primary purpose of every government?
20. What is said of the inability of States to do this?
21. What is the closing language of the Preamble?

BLACKBOARD EXERCISE.

LEGISLATIVE.

I. House of Representatives.

II. Senate.

CHAPTER VIII.

LESSON X.—CONGRESS.

THE Congress of the United States is the lawmaking branch of our government. All the lawmaking powers are vested in it, and it consists of a Senate and a House of Representatives.

In saying that this is the lawmaking branch, the statement must be taken with this qualification: that if the President of the United States shall officially object to any bill passed by the two Houses, the same must be re-passed by a vote of two thirds of each branch of that body, or it fails to become a law.

In the Congress are vested all, or nearly all, the powers and attributes of national sovereignty, —
Powers of Congress. such as belong to all independent nations.

Among these powers are: 1. To lay and collect taxes, duties, imposts, and excises; 2. To borrow money; 3.

To regulate commerce ; 4. To coin money ; 5. To constitute judicial tribunals ; 6. To declare war ; 7. To grant letters of marque and reprisal ; 8. To raise and support armies ; 9. To provide and maintain a navy ; 10. To provide for the calling-forth of military forces ; 11. To admit new States into the Union.

All these powers, and many more, as will be seen in treating of the powers of Congress hereafter, are vested by the Constitution in this branch of the Federal Government. They must assemble at least once every year, which meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Either or both Houses, on extraordinary occasions, may be required to convene in extra session, on the call of the President of the United States.

The House of Representatives is, in a special sense, that division of the legislative body which represents the people of the several States. The members are *The House of Representatives.* elected by the votes of the qualified voters of the several State congressional districts. As will be seen hereafter, they are a much more numerous body than the Senate. In many respects they may be compared to the House of Commons in England. The term of its existence, by constitutional limitation, can never extend beyond the period of two years.

We have a new House of Representatives every alternate year, always commencing with the years of odd numbers ; and Congress is numbered by the number of times we have had a new House of Representatives. Thus we speak of the Fiftieth, Fifty-first, Fifty-second, and Fifty-third Congresses, and the numbers of these Congresses correspond to the number of times respectively that the House has been organized.

The Senate is a perpetual body, consisting of two mem-

bers from each State, chosen by the Legislature thereof for the term of six years. The Constitution requires higher qualifications for membership here than in the other House. The reasons for this will appear hereafter when we reach the analysis of the Senate.

The Senate. The Senators represent the States *as* States in their sovereign or political capacity. On the floor of the Senate the States, large and small, are equal in political power and influence.

QUESTIONS.

1. What is the Congress of the United States ?
2. Of what does it consist ?
3. What if the President of the United States objects to a bill ?
4. What powers are vested in Congress ?
5. Will you state some of these powers ?
6. How often and when shall Congress assemble ?
7. What is said of an extra session of Congress ?
8. What is the special character of the House of Representatives ?
9. How are members elected ?
10. To what may they be compared ?
11. How long is a Representative term ?
12. How often do we have a new House ?
13. How are Congresses numbered ?
14. What is the Senate ?
15. What do the senators represent ?
16. What is the relative power of the States in the Senate ?

BLACKBOARD EXERCISE.

HOUSE OF REPRESENTATIVES.

I. <i>How composed</i>	(3)
II. <i>Eligibility:</i>	
1. <i>Age</i>	(4)
2. <i>Citizenship</i>	(4)
3. <i>Inhabitancy</i>	(4)
III. <i>Number of Members</i>	(5)
IV. <i>How apportioned</i>	(99)
V. <i>Enumeration.</i>	
1. <i>When made</i>	(5)
2. <i>How made</i>	(5)
VI. <i>By whom elected</i>	(3)
VII. <i>Qualification of Voters</i>	(3)
VIII. <i>When elected</i>	(3) {15}
IX. <i>How Vacancies are filled</i>	(6)
X. <i>House Powers.</i>	
1. <i>Legislative.</i>	
(a) <i>Concurrent</i>	(2)
(b) <i>Exclusive</i>	(23)
2. <i>Inquisitorial</i>	(7)
3. <i>Elective.</i>	
(a) <i>House Officers</i>	(7)
(b) <i>President of U. S.</i>	(57)

CHAPTER IX.

LESSON XI.—HOUSE OF REPRESENTATIVES.

THE House of Representatives is one branch of the American Congress, and it assembles at Washington at least once a year to take part in making laws to govern the nation. This body alone cannot make the laws, but is coördinate with the Senate in lawmaking.

The House of Representatives is composed of members elected by the people of the several States. These members are called representatives because they are supposed to represent the views and wishes of the people who elect them. They act and speak and vote as the agent of the people, who are called their constituency.

The people cannot all assemble in one body or convention to make the laws, and therefore they send their agents or representatives to do this business for them. It would be impossible for millions of people to assemble in one convention, and make the laws by which they would promise to be governed.

Eligibility, as here used, signifies the right to hold and enjoy an office or position, if properly elected or appointed thereto. To be eligible to an office, one must possess the proper legal qualifications for it.

The conditions of eligibility to the House of Representatives are three: 1. *Age*; 2. *Citizenship*; 3. *Inhabitaney*.

1. Age is the first condition of eligibility to membership of the House of Representatives required by the Constitution. The representative must have attained to the age of twenty-five years.

1. *Age* (4).

Before the age required by the Constitution, few men have had sufficient experience and preparation to qualify them for so important a public trust.

2. Another condition of eligibility is that the member must have been a citizen of the United States at least seven years.

2. *Citizen-ship* (4).

The following quotation from the Fourteenth Article of Amendment to the Constitution defines the meaning of the word "citizen" thus:—

"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."

We learn by this extract that a person may be a citizen of the United States either by birth or by naturalization.

Naturalization is that process by which an alien or foreigner becomes a citizen of the United States. Before the adoption of the Constitution, this whole subject was under the control of the several States, some requiring a longer, and others a shorter, period of time for its completion; but under the present Constitution, Congress has exclusive control of the matter, and now, by the laws of that body, it requires five years. These, added to the seven years of citizenship required by the Constitution, make it necessary that a person of foreign birth shall have actually resided in this country at least twelve years before he can take a seat as a member of the House of Representatives if elected thereto.

This is a period sufficiently long, perhaps, to enable a person of foreign birth to make himself acquainted with our

institutions and form of government, and to demonstrate his attachment to our country.

3. The third condition of eligibility is that the member must be an inhabitant of that State in which he shall be chosen. States having more than one member are divided into congressional districts. A person may reside in one district and yet be elected by and for another district of the same State ; but this is not usual, though it has been done in some instances. If a person has been elected a member in one congressional district, and removes to another, or even to another State, this removal does not deprive him, during the term for which he was elected, of his seat in the House.

3. *Inhabitancy* (4).

QUESTIONS.

1. What is the House of Representatives ?
2. How does this branch stand related to the Senate in law-making ?
3. How is the House composed ?
4. Why are the members called representatives ?
5. Why do the people send representatives to the House ?
6. What does eligibility here signify ?
7. What are the conditions of eligibility to the House ?
8. What does the word " citizen " mean ?
9. How many ways of becoming a citizen of the United States ?
10. What is naturalization ?
11. In whose hands was this subject before the adoption of the Constitution ?
12. Under whose control is this matter now ?
13. How long time does it require for a person of foreign birth to become eligible to the House ?
14. What is the third condition of eligibility ?
15. How are the States divided ?

LESSON XII.—HOUSE OF REPRESENTATIVES,
Continued.

As to number of members, the Constitution says, "The number of representatives shall not exceed *III. Number of* one for every thirty thousand; but each *Members (5).* State shall have at least one representative."

When the Constitution was formed in 1787, the population of the States was not known, with anything like exactness, to the convention that framed that document. It was provided, however, by the Constitution, that the population should be ascertained within a few years by actual count or enumeration.

The number of representatives in the first Constitutional Congress was sixty-five. This number, it was presumed, gave one member to about thirty thousand inhabitants.

As the population of the United States should increase, of course the number of members in proportion to the inhabitants represented must be diminished. If not, the number of members in the House of Representatives would become too great, in the course of a few years, for the convenient transaction of business. Hence once in ten years Congress fixes by law the proportion of representation to population. The necessity for this is manifest. For instance, the population of the United States one hundred years after the adoption of the Constitution was over sixty millions. With one representative for every thirty thousand, the House would then have consisted of two thousand members, — a number far beyond that of any legislative body in the world.

The number of members is fixed by a law of Congress once in ten years, and their apportionment is based on the

last census. The number fixed in accordance with the Thirteenth Census is 435, being 1 for each 211,877 persons and fraction of more than half thereof in each State. Using this number (called the ratio) as a divisor, and dividing the population of each of the States by it, the quotient will be its number of members allowed for whole ratios; but in each instance there will be a remainder, larger or smaller. To each State having a remainder of more than half of 211,877, one additional member is allowed, so as to make the total of all the States 435. Each State is divided into congressional districts by its Legislature; but, in case the number of representatives of a State is increased and the Legislature fails to redistrict the State before an election occurs, the additional member or members are elected *at large* on the general State ticket. In case the number were diminished and the State were not redistricted, the entire number of representatives would be elected *at large*.

Nevada has a population less than half of 211,877; but it has one member under the constitutional provision that "each State shall have at least one representative."

Hawaii and Alaska each elect one *delegate*, Porto Rico one *commissioner*, and the Philippines two *commissioners*, who have seats in the House and may speak, but not vote, on any question.

QUESTIONS.

16. What does the Constitution say on this subject?
17. What was known about the population of the States when the Constitution was formed?
18. What was provided by the Constitution in reference to this?
19. How many members were in the first Constitutional Congress?
20. As the population of the United States should increase, what must be done?
21. Why must this be done?
22. By whom and how often is the number of members fixed?

23. What is the present number? How apportioned and allotted among the States?
24. What members are called members *at large*?
25. How are members *at large* elected?
26. What if new States are admitted into the Union?
27. What is said of delegates and commissioners?

LESSON XIII. — HOUSE OF REPRESENTATIVES,
Continued.

When the Constitution was adopted, slavery existed in every State excepting Massachusetts. As a matter of compromise between the North and South, and *IV. How apportioned (99).* after long and earnest debate in the convention that framed that document, the following clause was accepted as the rule for determining the representative population: —

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, 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.”

The last clause of this period, “three fifths of all other persons,” refers to slaves. Three fifths of these were to be counted as representative population.

It will be observed that the Constitution nowhere mentions the word “slave” or “slavery.” Whenever it is necessary to allude to that class of persons, a definition is adopted instead of the word itself. This was deliberately intended by the authors of that instrument, feeling that it would be a stain upon their work. The word “slavery” occurs in the Thirteenth Article of Amendment, and

there only for the purpose of abolishing that institution throughout the United States, and in all places subject to their jurisdiction. This amendment was proclaimed by the secretary of state, Dec. 18, 1865, to be a part of the supreme law of the land. From that day, therefore, slavery ceased to exist throughout the United States and their Territories.

By a part of the second clause of the Fourteenth Article of Amendment, which was subsequently adopted July 28, 1868, the count of representative population was essentially modified. From the time of the adoption of that article, representatives are to be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

By a subsequent provision of the same clause, if any State shall disfranchise any of the male population, being twenty-one years of age and citizens of the United States, and prohibit their voting at the usual elections, the basis of representation is to be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

By the Fifteenth Article of Amendment, subsequently adopted March 30, 1870, the States are forbidden to deny or abridge the right of citizens of the United States to vote on account of race, color, or previous condition of servitude.

Thus it will be seen that the entire population, and the representative population, excluding Indians not taxed, are identical.

QUESTIONS.

28. How many States held slaves at the adoption of the Constitution?
29. How were representatives then apportioned?
30. To whom does "three fifths of all other persons" refer?
31. Where and for what purpose does the word "slavery" occur in the Constitution?
32. When was slavery abolished in this country?
33. How are representatives now to be apportioned?
34. For what cause is the basis of representation to be reduced?
35. What is the substance of the Fifteenth Article of Amendment?

LESSON XIV. — HOUSE OF REPRESENTATIVES,
Continued.

It will be remembered that the Constitution was formed in 1787. In reference to the enumeration, it says that the actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. *V. Enumeration.*

The enumeration is what is generally known as the census. The primary and leading object for which the census is taken is to equalize representation in the House of Representatives in proportion to the population of the several States. Indeed, this is the only means by which equality by representation can be secured.

The Constitution requires that the census shall be taken once in ten years. By act of Congress it was taken the first time in 1790; and it has been taken decennially ever since, during the first year of every regular decade: thus, 1800, 1810, 1820, etc. *1. When made (5).* It has therefore already been taken thirteen times.

The manner of taking the census is under the control of Congress, to be fixed from time to time by law. Since the organization of the Department of Commerce and Labor (1903), that department has had general supervision of the matter. The Thirteenth Census was by law placed under the immediate superintendence of the director of the census, who was made the head of the Census Office. Supervisors had charge of limited districts, one or more in each State, under whose direction the enumerators canvassed their respective subdistricts during the month of April, 1910.

The duties of these enumerators consisted in visiting personally every dwelling-house and family within the limits of their respective jurisdictions, and propounding to some member of the family, of suitable age and intelligence, such questions as are required by act of Congress.

These questions relate not only to the number of inhabitants, but to their ages, sex, color, ability to read and write, facts relating to agriculture, manufactures, commerce, resources of the country, its productions, and, in fact, everything that may be necessary to give a general view of the condition of the United States.

For the collection of industrial statistics there were employed, besides the enumerators, many special agents.

Nor is it left to the discretion of persons questioned whether they will answer the interrogatories. They are compelled to answer, under penalty of a heavy fine for refusing to do so.

Representatives are elected by the people of the several States. This is required by the express language of the Constitution. The word "people," however, does not include all persons, men, women, and children, but includes those persons only who are qualified voters.

*VI. By whom
elected (3).*

This provision of the Constitution met with very strong opposition in the convention that framed that document. Some of the ablest men of that body contended that it was unsafe to allow the people to elect, by direct vote, their own representatives to Congress. This class of members earnestly contended that it would be an excess of democracy most dangerous in the hands of the people; that they were not qualified to exercise this prerogative. By the members holding this view it was proposed that these elections should be referred to the several State Legislatures. But at length the provision passed by a very close vote. Had the proposition prevailed to elect representatives by State Legislatures, it is highly probable that the Constitution would have been rejected by the people.

QUESTIONS.

36. When was the Constitution formed?
37. What does it say of enumeration?
38. What is the leading object for which the census is taken?
39. How often must the census be taken?
40. When was the first census taken?
41. How many times has it been taken?
42. Who has the control of this matter?
43. What department has the supervision of this matter?
44. What officer has immediate control of the census?
45. What other officers are employed in this business?
46. How do the enumerators canvass their districts?
47. What penalty attaches to a refusal to answer the officer's questions?
48. By whom are representatives elected?
49. Who are these people?
50. What is the substance of the discussion in the convention on this subject?

LESSON XV.—HOUSE OF REPRESENTATIVES,
Continued.

The word “electors” here means voters. The Constitution requires that the electors, or voters for members of the House of Representatives, shall have the qualifications requisite for the voters, or electors of the most numerous branch of the State Legislature.

VII. Qualifications of Electors (3).

A State Legislature, like the Federal Congress, consists of two Houses, one of which is called the Senate, and the other of which is known as the Assembly, House of Delegates, or House of Representatives,—in one State by one name, in another by another. The Senate is the least numerous branch, and is frequently called the upper House; the other branch is the most numerous, and is often called the lower House.

In some States higher qualifications are required to vote for members of the upper than of the lower House; but, by the provision of the Constitution just referred to, no State has the right to require any higher qualification of an elector to vote for a member of the House of Representatives than it requires to vote for a member of its own lower House.

For instance: the Senate of the State of New York consists of fifty-one members; the Assembly, of one hundred and fifty, the Assembly being the most numerous branch of the State Legislature. Now, if the State of New York were to require a property qualification to vote for a State senator, and no such qualification to vote for a member of the other House, that State could not require a property qualification to vote for a member of the National House of Representatives. Whoever may

vote for a member of Assembly in New York may enjoy the right to vote for a representative in Congress. Each State, therefore, determines this whole question for itself. Were women allowed to vote for members of the Assembly in the State of New York, they must also be allowed to vote for members of the lower House of Congress.

Members of the House of Representatives are elected in the several States by congressional districts. When it has been ascertained how many members each State is entitled to, the Legislatures of the several States divide them respectively into as many congressional districts as they are each entitled to members. These congressional districts are numbered, for convenience, 1st, 2d, 3d, etc., and are known by their numbers.

The electors of each district vote for but one candidate, though that candidate need not necessarily be a resident of the voter's district. He must, however, as we have seen, be an inhabitant of the State in which he shall be chosen.

The Constitution says that representatives shall be chosen every second year; that is, once in two *VIII. When elected (3) (15).* years. The representative term commences the fourth day of March next after the election of the members, and continues for two years.

For many years the day of election of representatives was not the same in the several States,—the time was regulated by each State Legislature for its own jurisdiction,—but by paragraph (15) of the Constitution the time of holding elections for representatives may be determined by Congress.

Under this authority a law was passed Feb. 2, 1872, fixing the time for election of representatives; and by this law the time is the same throughout the United States, except in a few States where another day is fixed by the State constitutions.

In all other States and Territories the election must be held on the first Tuesday after the first Monday in November, the year of the election.

The Constitution says, "When vacancies happen in the
IX. How Vacancies are filled (6). representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies."

The writ of election is directed to the proper officer of the congressional district in which the vacancy occurs. The writ commands that the election shall be held at a time therein named, and it is the duty of the officer to whom it is directed to give notice thereof. The election held in pursuance of such writ is called a special election.

The representative elected to fill a vacancy serves only the unexpired portion of the term for which his predecessor was elected. Vacancies can only happen by death, resignation, or expulsion of the incumbent from his seat in the House.

QUESTIONS.

51. What does the word "electors" mean?
52. What must be the qualifications of voters?
53. Of what do State Legislatures consist?
54. Which is the most numerous branch?
55. What qualifications has a State a right to require of voters for a representative in Congress?
56. Give the substance of the illustration.
57. What is said about congressional districts?
58. How often are members chosen?
59. When does a representative term begin, and how long continue?
60. By whom has the time for electing representatives been determined heretofore?
61. By whom is it now determined?
62. Hereafter on what day is the election to take place?
63. Where is the election to be held on that day?
64. How are vacancies filled?
65. What is said about this writ of election?
66. How may vacancies occur?

LESSON XVI. — HOUSE OF REPRESENTATIVES, *Continued.*

The House is coördinate with the Senate in general legislation. There are special powers peculiar to each House, and these are so clearly defined in *X. House Powers.* the Constitution as to take away all ambiguity. There can be no mistaking the powers of one House for those of the other. But in the general ordinary business of lawmaking the Houses are coördinate in legislative power.

The Constitution says, "All bills for raising revenue shall originate in the House of Representatives."
(a) Concurrent (2).
(b) Exclusive (23).

It will be seen, therefore, that the power for originating bills which may result in a tax upon the people belongs *exclusively* to the House.

This body, as has been stated, is constituted of the more immediate representatives of the people; and as the people are to pay the taxes, if any are imposed, it would seem fit and proper that their representatives should be the prime movers in any measures that require money to prosecute them.

The House of Representatives has the sole power of finding, or preferring articles of impeachment. An impeachment is a solemn and specific accusation brought against a public officer, drawn out in due form, charging him with treason, bribery, or other crimes and misdemeanors.
2. Inquisitorial (7).

It is in the nature of an indictment, being only *prima facie* evidence of guilt; sufficient, however, to put the accused on trial at the bar of the Senate. Although it requires a majority of two thirds of the Senate to convict

the accused, it requires only a numerical majority to prefer the impeachment by the House.

It would be in the highest degree improper for the accusing party to try and pronounce upon the guilt of the accused. When originating charges of impeachment, the House acts as the grand inquest of the nation. The Senate alone decides on the innocence or guilt of the accused.

In England the power of impeachment is vested in the House of Commons, the people's branch of the legislative department; and the trial of impeachment belongs to the House of Lords, to which our Senate is somewhat analogous (see TOWNSEND'S *Analysis of Civil Government*).

The Constitution says that the House shall choose their speaker and other officers. The speaker is the presiding officer of the House. He is chosen from among the members themselves, being himself a representative. It is his duty to preside over the deliberations of the House, and to decide questions of order. The other officers are a clerk, sergeant-at-arms, postmaster, and doorkeeper. These officers are not members of the House.

Among the peculiar and exclusive powers of the House of Representatives is that of choosing a President of the United States in a certain contingency.

When the electors of President and Vice-President fail to elect a President by a majority of all the electors appointed by the people for that purpose, the election of the President devolves on the House. This has occurred twice since the adoption of the Constitution.

The first instance of an election by the House occurred in 1801. The two opposing candidates were Thomas Jefferson of Virginia, and Aaron Burr of New York. Mr. Jefferson was elected on the thirty-sixth ballot.

The second instance of the kind occurred in 1825. At that time there were three candidates for the office, whose names were before the House. These were John Quincy Adams of Massachusetts, Andrew Jackson of Tennessee, and William H. Crawford of Georgia. Mr. Adams received a majority of the votes on the first ballot, and was declared elected. He was the sixth President of the United States.

QUESTIONS.

67. How are House powers divided and subdivided?
68. What is said about the special powers of the two Houses?
69. What bills must originate in the House?
70. What is an impeachment?
71. What is said about impeachments in England?
72. What are the position and duties of the speaker?
73. What are the other officers of the House?
74. In what case does the House elect a President of the United States?
75. How many times, and when, has this occurred in our history?

BLACKBOARD EXERCISE.

SENATE.

I.	How composed	(8)
II.	Eligibility.	
	1. Age	(10)
	2. Citizenship	(10)
	3. Inhabitaney	(10)
III.	Senatorial Term	(8)
IV.	By whom chosen	(8)
V.	When chosen	(9)
VI.	How classed.	
	1. Expires Second Year	(9)
	2. Expires Fourth Year	(9)
	3. Expires Sixth Year	(9)
VII.	How Vacancies are filled.	
	1. Legislature	(9)
	2. State Executive	(9)
VIII.	Vote	(8)
IX.	Presiding Officer.	
	1. Vice-President U. S.	(11)
	2. President pro tempore	(12)
	3. Chief Justice	(13)
X.	Senate Powers.	
	1. Legislative.	(2)
	2. Executive.	
	(a) Appointments	(64)
	(b) Treaties	(64)
	3. Elective.	
	(a) Senate Officers	(12)
	(b) Vice-President U. S.	(57)
	4. Judicial	(13)

CHAPTER X.

LESSON XVII. — SENATE.

THE Senate of the United States is composed of two senators from each State. While in the House each State is represented in proportion to the population thereof, and consequently enjoys political power in that proportion, no such distinction exists in the Senate: here the States, large and small, are equal. This is an unalterable provision of the Constitution, as will be seen by the closing language of Article V. of that document, which says, “No State, without its consent, shall be deprived of its equal suffrage in the Senate.”

*I. How
composed (8).*

The composition of the Senate is the result of compromise between the larger and smaller States represented in the Constitutional Convention. Under the Confederation, it will be remembered, the representative power in Congress was the same in all the States; and that body consisted of but one House. The small State of Rhode Island had one vote, and the great State of Virginia had no more. The small States were tenacious of this power, and were reluctant to allow any encroachment on their sovereignty.

The large States yielded one point in the compromise, and the small States another. The large States consented to equality in the Senate; and the small States, to representation in the House in proportion to population. And as every bill, before it can become a law, must pass both

Houses of Congress, the rights of the smaller States are not likely to be compromised in the legislative departments.

The age of a senator must be at least thirty years. By reference to the age required for membership in the other

II. Eligibility. House, it will be seen that there is a differ-

1. Age (10). ence of five years, a man being eligible to a seat in that House at twenty-five years. It is considered, that, at least in some respects, the duties of a senator are more responsible than the duties of a member of the House of Representatives.

This may be inferred from the following : —

1st, There can be but two senators from one State, while the number of representatives will depend on the population. The State of New York, for instance, can have but two senators, but, by the apportionment based on the census of 1910, has forty-three members of the other House.

2d, The responsible duty of trying all impeachments devolves on the Senate ; and from their decision there is no appeal.

3d, On the Senate rests the grave responsibility of deciding on the fitness of executive nominations to office.

4th, In the Senate is vested, jointly with the executive, the prerogative of treaty-making.

Any person born or naturalized in the United States, and subject to the jurisdiction thereof, is a citizen. The

2. Citizenship period of citizenship here required, before
(10). a person can be eligible to a seat in the Senate, is nine years. This refers to persons of foreign birth, who must go through the process of naturalization in order to become citizens.

The laws of Congress require five years' residence before an alien can become naturalized, and the Constitution nine years' citizenship before he can hold the office

of United States senator; making fourteen years' residence necessary before he is eligible to a seat in that body.

A senator of the United States must be an inhabitant of that State for which he is chosen.

3. Inhabitancy

(10).

But let it be observed, that necessity of inhabitancy is limited to the time *when chosen*. A senator chosen for New York, for instance, does not vacate his seat in the Senate by changing his residence to any other State during the term for which he was elected. It might be in the highest degree proper that he should resign, but that is a matter within his own discretion.

QUESTIONS.

1. How is the Senate of the United States composed, and how does it differ in composition from the House of Representatives?
2. What is the provision of the Constitution with reference to this?
3. Of what is the composition of the Senate of the United States the result?
4. What is said of the power of Congress under the Confederation?
5. What are the conditions of eligibility to the Senate of the United States?
6. In what respects are the duties of a senator more responsible than those of a member of the other House?
7. Who are citizens of the United States, and what are the citizenship conditions of eligibility to the United States Senate?
8. What time is required for naturalization?
9. What is said of the necessity of continuous inhabitancy to render one eligible as presiding officer of the Senate?

LESSON XVIII. — SENATE, *Continued.*

The full senatorial term is six years,—a period three times as long as a term in the other House. The senatorial term was a subject of earnest debate

III. Senatorial Term (8). in the convention, and on which, at first, there was great difference of opinion.

The terms of three, four, five, six, seven, and nine years were severally proposed, and each had its advocates. Several members were in favor of extending the term for life, or during good behavior.

All were in favor of a term sufficiently long to insure to the office dignity, stability, and independence. Six years was probably not the choice of half the members of the convention, but that term was adopted as a compromise of the extremes.

It was the intention of the authors of the Constitution that the Senate should be a far more grave, dignified, and aristocratic body than the House.

The senators are chosen by the Legislatures of their respective States.¹ They represent their States in their political capacity, and are not regarded as representatives of the people. In the other House, a member, as we have seen, represents the people of his congressional district. The senator represents the whole State, by which he is chosen through its Legislature. Therefore State Legislatures have sometimes claimed the right to instruct their senators in regard to the course which they wish them to take on great national questions,

¹ In 1912 Congress proposed an amendment to the Constitution, providing that the senators should be chosen by vote of the people of their respective States. This amendment will go into effect when ratified by the Legislatures of three fourths of the States.

even to the extent of dictating how they shall vote on such questions.

By a provision of the Constitution, one third of the number of senators is chosen every second *v. When chosen* year. (9).

This must necessarily be so, on account of the mode of classifying the senators which is prescribed in the Constitution, and which is therein directed to take place at the first organization of the Senate under the new government.

Only one third of the senators being chosen every second year, and but one third retiring every second year, the Senate must always be constituted of members one third of whom have had at least four years of legislative experience, and of another third who have had at least two.

By act of Congress, passed July 26, 1866, relating to the election of United States senators by the State Legislatures, it is provided, —

1st, That each House shall, by a vote *vivâ voce* of each member present, on the second Tuesday after the meeting and organization thereof, name a person for senator of the United States.

2d, On the day following, the two Houses shall meet in joint assembly; and, if the same person shall have received a majority of all the votes cast in each House, he shall be declared duly elected senator of the United States.

3d, If no person has received such majorities, then the joint assembly shall choose by a *vivâ voce* vote a person for senator; and the person who shall receive a majority of all the votes of the joint assembly, a majority of the members of each House being present, shall be declared duly elected.

4th, If such senator is not elected on the first day, the joint assembly shall meet, and take at least one vote per day, during the entire session of the Legislature, or until a senator shall be elected.

5th, In relation to vacancies, the act provides that when one exists at a meeting of the Legislature, the same proceedings shall be had on the second Tuesday after their meeting and organization.

6th, When a vacancy shall happen during the session of the Legislature, like proceedings shall be had, beginning with the second Tuesday after notice of such vacancy shall have been received.

7th, The governor of the State shall certify the election of a senator to the President of the United States.

QUESTIONS.

10. What is a senatorial term?
11. How does this compare with a term in the other House of Congress?
12. What were the views of the members of the convention on this subject?
13. By whom are the senators chosen, and whom do they represent in their political capacity?
14. How does the representation of senators differ from that of the other House?
15. Why do State Legislatures claim the right to instruct their senators?
16. What portion of the senators is chosen every second year, and why must this be so?
17. What is the result of this?
18. When, and by what formality, are United States senators elected?

LESSON XIX. — SENATE, *Continued.*

The Constitution says, “Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three *VI. Three Classes of Senators (9)* classes. The seats of the senators of the first class shall be vacated at the expiration of the second year ; of the second class, at the expiration of the fourth year ; and of the third class, at the expiration of the sixth year.”

By the foregoing provisions of the Constitution, it will be seen that the Senate is a perpetual body. This was the intention of the framers of that instrument. The prerogatives with which it is invested, and the duties required of it, render this indispensable. It may be necessary to convene them at any time for the purpose of trying impeachments, confirming executive nominations to office, or concurring with the President in making treaties. Of course, there would be times when this could not be done if the Senate were not a perpetual body.

The number of senators at first was twenty-six, there being thirteen States in the Union, and two senators from each State. Were each of these senators to serve for six years, their terms would all expire at the same time ; but the plan was, that one third should retire every second year : hence the first Congress classified the senators, and determined by lot who should retire at the end of two years, who at the end of four, and who at the end of six. That classification has been preserved, as nearly as practicable, ever since.

When a new State is admitted into the Union, and it chooses two senators, it is determined by lot which shall serve for the short and which for the full term.

The language of the Constitution on the subject of filling vacancies is as follows:—

“ If vacancies happen by resignation or otherwise during the recess of the Legislature of any State, the Executive *VII. How Vacancies are filled.* thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.”

As implied by this language, if the Legislature of the State in which the vacancy occurs is in session when it *1. By the Legislature (9).* happens, that body will fill the vacancy. As to when and how they shall fill it, has been explained under the head, in this chapter, “ When chosen.”

The Executive is the governor of the State. He may *2. By the Executive (9).* make temporary appointments to fill vacancies that occur when the State Legislature is not in session.

If the Legislature is in session when the vacancy happens, the governor has no authority over the matter: nor can he make an appointment, even for a single day, in anticipation of a vacancy that is soon to occur; he must wait until it has really taken place. This has been decided by the Senate of the United States. Nor can the State Legislature choose a senator to fill a vacancy, until the vacancy has actually happened.

The Constitution says, “ Each senator shall have one vote.”

This clause would seem to be superfluous, unless it be remembered, that, under the Confederation, each State, *VIII. Vote (8).* whatever the number of its members in Congress, had but one vote; and, if less than two members were present, it had no vote.

The States were each allowed from two to seven members; and, if their delegation was equally divided, they

lost their vote. One member was incapable of voting alone.

It was the intention of the Constitution to give equality of suffrage in the Senate; with the further advantage that a senator shall not lose his vote, nor his State go entirely unrepresented, on account of the absence of one of the members from the Senate Chamber.

QUESTIONS.

19. How are senators classed, and when do their terms expire?
20. How long does the Senate exist?
21. What is the necessity of this?
22. How many senators were in the first Constitutional Congress?
23. By what means were they classified?
24. What is done when new States are admitted?
25. By whom are vacancies filled?
26. What has been decided by the Senate in regard to filling vacancies?
27. What is the origin of the provision that each senator shall have one vote?

LESSON XX. — SENATE, *Continued.*

The Vice-President of the United States is *ex officio* (that is, by virtue of his office) president of the Senate. He performs the ordinary duties devolving on a presiding officer, except that he does not appoint the standing committees. This exception is proper from the fact that he is not a member of the body over which he presides.

IX. Presiding Officer.
1. Vice-Pres.
U. S. (11).

In case of the removal of the President of the United States from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, these duties devolve on the Vice-President; and he becomes

President of the United States. In such case, of course, he will not act as presiding officer of the Senate ; nor will he act as president of that body during the trial of the President of the United States on impeachment, should such an event occur.

By the Constitution, the Senate are required to choose a president *pro tempore*, in the absence of the Vice-President, or when that officer shall be occupying the office and performing the duties of President of the United States.

The president *pro tempore* of the Senate is sometimes called the Vice-President of the United States ; only, however, when the Vice-President has become President. This is often done, doubtless, by way of courtesy, but sometimes because he is really thought to be in fact such officer. This is a mistake which arose from the fact that until 1886 the president *pro tempore* of the Senate stood next in the line of succession to the office of chief magistrate, in case of the death of both the President and Vice-President.

The Vice-President is an officer of the United States, and no such officer can be a member of either House of Congress. The president *pro tempore* of the Senate is a member of that body, while the Vice-President of the United States is not.

A person may be eligible to the office of senator, and consequently to the position of president *pro tempore*, though ineligible to the office of Vice-President of the United States (see TOWNSEND'S *Analysis of Civil Government*).

The President of the United States is removable from office on impeachment by the House, and conviction by the Senate. The Senate has the sole power to try all impeachments. When the President is tried, the chief justice of the United States Supreme Court shall preside.

It would be manifestly improper for the Vice-President of the United States to preside over the trial of the President, whose conviction would result in removal from office. As the Vice-President, in such case, would succeed to the office of President, the former would be directly interested in the conviction of the latter. The President of the United States is the highest officer under our government; and it may be regarded in the highest degree proper and befitting, that, if brought to trial on impeachment, the highest judicial officer should preside over the solemn deliberations of such an august proceeding.

QUESTIONS.

28. Who is the presiding officer of the Senate of the United States?
29. What are his duties?
30. Why does he not appoint committees?
31. To what other duties may he be called?
32. Under what circumstances does he not preside over the Senate?
33. When is the president *pro tempore* chosen?
34. What is the president *pro tempore* sometimes called?
35. Why is he not such officer?
36. When does the chief justice of the United States Supreme Court preside over the Senate?
37. Why would it be improper for the Vice-President to preside in such case?
38. Why is the chief justice of the Supreme Court a more appropriate presiding officer?

LESSON XXI. — SENATE, *Continued.*

The Constitution makes no general distinction between the powers of the two Houses in legislation. It vests all *X. Senate Powers.* legislative power in a Congress of the *1. Legislative (2).* United States, consisting of a Senate and House of Representatives. These bodies are therefore coördinate with each other in general legislation.

But, as we have seen in a former chapter, there is one power relating to legislation vested in the House exclusively; and that is the power to originate bills for raising revenue.

Yet, when these bills reach the Senate, that branch of the Legislature may treat them in all respects as though they originated there. They can propose amendments, concur with amendments, or reject them, if proposed by the House, at any stage of the proceedings; or they can reject the bills altogether.

The power over appointments to office and of ratifying treaties is called executive, because in such cases the Senate *2. Executive.* acts on the recommendations of the President. In the transaction of such business *(a) Appoint-ments (64).* the session is called an executive session; and they sit with closed doors, the members being generally under an injunction of secrecy.

The President nominates, and by and with the advice and consent of the Senate appoints, ambassadors, other public ministers, and consuls; judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for in the Constitution, and which are established by law.

The power is vested in the Senate of ratifying or rejecting these nominations of the President.

A treaty is an agreement or contract between two or more nations, entered into with proper formality and solemnity, defining the rights of the respective parties thereto with regard to trade, commerce, boundaries, or any other subject of interest to the nations concerned. ^{(b) Treaties (64).}

The terms of treaties are usually agreed upon either by commissioners appointed by their respective governments for the specific purpose of arranging the details, or by ambassadors or other public ministers.

Treaties are discussed by the Senate in secret session. They can ratify or reject a treaty, or ratify it in part and reject it in part; or they can make additions to it. Every part of a treaty, to be valid, must of necessity be ratified by a vote of at least two thirds of the senators present and voting thereon.

When amendments to, or alterations of, the treaties have been made by the Senate, the whole document must be re-submitted to the President, and also to the foreign government with whom negotiations are pending.

The Senate has the power to elect its officers, except the president thereof, who holds this position by virtue of his being Vice-President of the United States. They are required by the Constitution to choose a president *pro tempore* also. Deliberative bodies, with few exceptions, elect their own officers; and this is necessary to their independence. Here is one of the exceptions to the general rule, however, that the Vice-President is, *ex officio*, president of the Senate.

Besides the president *pro tempore*, the Senate officers are a secretary, who keeps the record or journal, has charge of the papers, and reads such as he may be called upon by the members to read; a sergeant-at-arms and doorkeeper,

who sees that orders of the Senate are executed; and a postmaster, who sees to the mailing and distributing of letters and papers for the members.

These officers, except the president *pro tempore*, are not specified in the Constitution, and are not elected from the members of the Senate.

As a last resort, the Senate elects a Vice-President of the United States. This is not done, however, until an attempt to elect this officer on the part of electors chosen by the people has resulted in a failure. An election of a Vice-President by the Senate has taken place in the history of our government but once: in 1837 Richard M. Johnson was elected by the Senate.

The Constitution vests in the Senate the sole power to try all impeachments.

4. Judicial. When trying impeachments, the Senate sits as a *court*; and from their decision there is no appeal. Nor can the President of the United States exercise the pardoning power in cases of impeachment.

It requires a concurrence of two thirds of the members present to convict a party on impeachment. This was believed to be necessary in order to guard against hasty and inconsiderate decisions, and to prevent convictions from party zeal and political bias and prejudice. So large a majority, moreover, would be more likely to command the respect and peaceable acquiescence of the whole country.

The Constitution limits the punishment to be inflicted by the Senate on impeachment (1) to removal from office; and (2) to disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

QUESTIONS.

39. What is said of the general legislative power?
40. What legislative power belongs to the House only?
41. What power has the Senate over these bills?
42. What are the Executive powers of the Senate?
43. On what appointments to office does the Senate act?
44. What is a treaty?
45. By whom are the terms of treaties generally proposed?
46. What power over treaties has the Senate?
47. What officers has the Senate?
48. By whom are they chosen?
49. What are the duties of these officers?
50. When does the Senate elect a Vice-President of the United States?
51. How many times has this occurred?
52. What is the judicial power of the Senate?
53. What is said about impeachments?
54. What punishment may follow impeachment?

BLACKBOARD EXERCISE.

PROVISIONS COMMON TO BOTH HOUSES.

I. <i>Membership</i>	(17)
II. <i>Ineligibility.</i>	
1. <i>Official Incumbrance</i>	(22)
2. <i>Disloyalty</i>	(100)
III. <i>Business Quorum</i>	(17)
IV. <i>Parliamentary Rules</i>	(18)
V. <i>Yeas and Nays</i>	(19)
VI. <i>Journal.</i>	
1. <i>Keeping</i>	(19)
2. <i>Publishing</i>	(19)
VII. <i>Penalties.</i>	
1. <i>Punishment</i>	(18)
2. <i>Expulsion</i>	(18)
VIII. <i>Prohibitions.</i>	
1. <i>Adjournment.</i>	
(a) <i>Time</i>	(20)
(b) <i>Place</i>	(20)
2. <i>On Members.</i>	
(a) <i>Offices created</i>	(22)
(b) <i>Emoluments increased</i>	(22)
IX. <i>Official Oath</i>	(84)
X. <i>Salaries</i>	(21)
XI. <i>Official Privileges.</i>	
1. <i>From Arrest</i>	(21)
2. <i>Of Debate</i>	(21)

CHAPTER XI.

LESSON XXII.—PROVISIONS COMMON TO BOTH HOUSES.

THE Constitution says, “ Each House shall be the judge of the elections, returns, and qualifications *I. Membership* of its own members.” (17).

These are powers which, from the necessity of the case, must be vested in the House where membership is claimed. It is necessary to settle the legality and regularity of the election; otherwise any person might intrude himself into either House without the least show of authority. Regularity and legality of election can be determined only by an inquiry into the election through the returns, which opens the whole subject for investigation; for, in ascertaining the validity of the returns, it may be necessary to go back of them, and inquire into the legality of the election itself.

Were it not for these powers, a person might claim membership to either House who was wholly ineligible.

Even though regularly elected, he might lack any or all those qualifications required by the Constitution.

The power of determining the right to membership belongs not only to each House of Congress by express constitutional provision, but like authority is conceded to the legislative bodies of all the States, and to kindred bodies under all free governments.

One provision of the Constitution is as follows: “ No

person holding any office under the United States shall be

II. Ineligibility. a member of either House during his con-
 1. *Official Incum-* tinuance in office."
brance (22).

If a person holds any Federal office at the time of his election to either House of Congress, he must resign it before he has the right to take his seat. This provision originated in a deference to State jealousy, and fear that the General Government would obtain an undue influence in the national councils. If a Federal officer were allowed to be a member of either House, he might wield an undue influence over those with whom he would be associated in legislative deliberations.

In the year 1861 a great civil war broke out in the United States, which continued more than four years. It cost the

2. *Disloyalty* country more than a million of lives and
 (100). several billions of money. Most of the slave-holding States passed ordinances of secession, and organized the Confederate States; and many of their citizens, to the number of several hundred thousand, took up arms against the government of the United States. Among these were thousands of the prominent men of the South, many of whom had held high offices in State and Nation. The conflict resulted in the downfall of the Confederacy, and in the triumph of the Federal Government.

The Federal and State office-holders who were engaged in the secession movement had taken an oath to support the Constitution of the United States. By the third clause of the Fourteenth Article of Amendment to the Constitution, all such persons are declared ineligible to a seat in either House of Congress; though, by a further provision of the same clause, such disability may be removed by a vote of two thirds of the members of each House.

The Constitution says, "A majority of each House shall constitute a quorum to do business; but a smaller

number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.”

III. Business Quorum (17).

It is indispensable that the Constitution specify the number necessary to do business ; otherwise a reckless and intriguing minority might take advantage of the absence of the majority, and usurp the functions of legislation by enacting repugnant and odious laws, or by repealing those most acceptable to the people.

On the contrary, if a smaller number could not adjourn from day to day, or compel the attendance of absent members, the whole business of legislation might be suspended at the pleasure of a few refractory absentees. The necessity of these three provisions in reference to business, therefore, must be evident at a glance.

The Constitution says, “Each House may determine the rules of its proceedings.”

Every deliberative assembly has an inherent right to adopt such parliamentary rules as it chooses for the transaction of business, provided those rules do not violate any organic law from which such assembly receives its authority.

IV. Parliamentary Rules (18).

Take away this right to adopt their own rules of proceeding, and it would be utterly impracticable to transact business with facility and dispatch.

QUESTIONS.

1. What does the Constitution say about membership in either House of Congress ?
2. Why is this necessary ?
3. What may be necessary to the inquiry of the legality of the returns ?
4. What qualifications might a person lack, though regularly elected ?

5. To what legislative bodies is the power of determining this right accorded?
6. What are the conditions of ineligibility?
7. What is the language of the Constitution in regard to the conditions of ineligibility?
8. In what did this originate?
9. What great event was precipitated in 1861, and how long did it continue?
10. What did it cost the country?
11. What did the Southern States do?
12. How did the conflict terminate?
13. What oath had many of the Federal and State office-holders engaged in the secession movement taken?
14. What does the Fourteenth Article of Amendment say about these?
15. What does the Constitution say as to what shall be considered a quorum?
16. Why does the Constitution define the quorum to do business?
17. What is said about parliamentary rules?
18. What would be the result if this right concerning parliamentary rules were taken away?

LESSON XXIII. — PROVISIONS COMMON,

Continued.

The Constitution says, "The yeas and nays of the members of either House on any question shall, at the desire of
V. Yeas and Nays (19). one fifth of those present, be entered on the journal."

The usual method of taking a vote in deliberative bodies is substantially this: The question being stated by the presiding officer, he puts it first affirmatively, "As many as are in favor of the proposition, say 'ay'" (all the members in favor of it respond "ay"); the presiding officer then puts the question negatively, "Those opposed say 'no.'" The president is generally able to decide by the

sound; but if not, he repeats the trial, calling the vote both affirmatively and negatively. If still in doubt, or at the request of a member, the House may be divided, the affirmative taking one side, and the negative the other, when the secretary counts; and, on the count, the decision is made.

But in taking the yeas and nays the process is quite different. The presiding officer states both sides at once, thus: "As many as are in favor, etc., will, when their names are called, answer 'yea;' and as many as are opposed will, when their names are called, answer 'no.'" The names are then called, usually in alphabetical order, each member rising at the call of his name by the secretary or clerk, and answering "yea" or "nay," as he votes; the clerk noting the vote in each case. He then usually reads over the list of names and the votes in each case, so that, if any mistakes have been made, they may be corrected.

Several objects are secured by taking the yeas and nays:—

1st, They are entered on the journal, which shows, therefore, the way each member votes. The record is kept for future inspection.

2d, The record also shows who were absent, — a matter of scarcely less importance to the member, or his constituency, than the vote itself one way or the other. Members sometimes absent themselves for the purpose of avoiding responsibility in voting.

3d, As the newspapers publish a list of the yeas and nays, the people soon learn how each member has voted on any important question.

The Constitution says that each House shall keep a journal of its proceedings. This provision imposes a salutary restraint upon the members of the two Houses. In a

certain sense, it brings representative and constituent face to face. The journal contains a lasting

VI. Journal.
1. Keeping (19). record of the doings of the body for which it is kept, and is accessible for inspection at all proper times.

The Constitution requires that from time to time the journal shall be published excepting such parts as are proper to suppress, of which each House is the judge.

2. Publishing (19).

There may be proceedings in every legislative body, especially in times of insurrection or invasion, the immediate publication of which would be imprudent in the highest degree. The publication of such from day to day might give great advantage to a public enemy, and endanger the very existence of the government itself.

The Constitution says that "each House may punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

VII. Penalties.
1. Punishment (18). The power to punish members for disorderly behavior is usually given to legislative bodies. Without this power, it might be impossible, at times, to transact business. Under high excitement, members are sometimes boisterous and tumultuous in conduct; and they might persist in disturbing the assembly, but for this power to punish. Rules would be of no use without the power to enforce them.

The power to expel a member is given for the same purpose; that is, for the preservation of order, and for the maintenance of proper decorum. Without these powers, the country would lose all respect for its legislative assembly. But lest party-spirit might overstep the limits of propriety, and a domineering majority expel members of opposite political sentiments from improper motives, a salutary restraint is imposed, re-

quiring a vote of two thirds for the expulsion of a member. So large a majority it would be difficult to secure in any case where the rights of the assembly had not been grossly outraged.

A member may be expelled, not only for misbehavior in the presence of the assembly itself, but for any conduct elsewhere incompatible with his obligations as a legislator.

QUESTIONS.

19. What does the Constitution say about yeas and nays ?
20. What is the usual method of taking votes ?
21. How by yeas and nays ?
22. What objects are secured by this method ?
23. What does the Constitution say about keeping a journal ?
24. What is the use of this provision ?
25. What about publishing the journal ?
26. Why not publish the whole journal ?
27. What does the Constitution say about penalties ?
28. What is the use of this power ?
29. For what is the power of expulsion given ?
30. Why is so large a vote required to expel a member ?
31. For what may a member be expelled ?

LESSON XXIV.—PROVISIONS COMMON,

Continued.

The Constitution says, “Neither House, during the session of Congress, 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.”

VIII. Prohibitions.
1. Adjournment.

If there were no limitation as to the time for which either House, during the session of Congress, might adjourn without the consent of the other, a factious party-spirit controlling in either House

(a) *Time (20).*

might seriously interrupt legislation, or bring it to an untimely close.

Were there no restriction with regard to the place to which either House might adjourn without the consent of the other, mischief equally disastrous and embarrassing might be perpetrated. One House might compel the other to follow it from place to place for the very purpose of preventing legislation. This might be done by a minority taking advantage of the absence of a majority, as a minority has power to adjourn.

The duration of the sessions of Congress depends, —

1st, On the constitutional limitation, which cannot extend beyond the period of two years.

2d, On the pleasure of the two Houses, subject to the foregoing restriction.

3d, On the pleasure of the President of the United States, when the two Houses cannot agree on the time of adjournment.

The Constitution says, "No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time."

2. *Members.*

(a) *Offices created (22).*

(b) *Emoluments increased (22).*

If a member of Congress were permitted to assist in creating an office, and then to resign his seat for the purpose of obtaining that office on being nominated to it by the President, it would throw wide open the doors to executive corruption. Numerous lucrative offices might thus be created by legislation, with the understanding, express or implied, between the legislators and the Executive, that the offices so created should be distributed among those who were instrumental in creating them.

The chairman of the Judiciary Committee might pro-

pose, to the House of which he was a member, the creation of a United States judgeship in California, with a salary of ten thousand dollars a year; and, through his official influence, the bill might pass both Houses of Congress. By pre-arrangement with the Executive, that office might be secured to the very man who had been the chief means of creating it, were he at liberty to resign his seat and take it.

Also, by a system of "bargaining and selling," the salaries of certain offices might be greatly increased by mercenary legislation; and then those salaries might be bestowed on the very men who had been active in augmenting them, but for the restrictions under consideration.

Senators and representatives shall be bound by oath or affirmation to support the Constitution of *IX. Official Oath* the United States. *(84).*

This oath is administered to the members, before taking their seats, by the President of the Senate, or Speaker of the House of Representatives. He who takes it appeals to the Supreme Being for the rectitude of his intentions. Such an oath is calculated to make a deep and solemn impression on the mind of any candid and conscientious man.

It seems fit and proper, therefore, that all who assume the important trust of legislation for their country should take upon themselves this solemn obligation. They assume grave responsibilities, the faithful discharge of which concerns the welfare of the whole people of the United States.

Some persons are conscientiously opposed to taking an *oath* on any occasion whatever. Out of respect to the scruples of such persons, a solemn affirmation is administered instead of an oath.

QUESTIONS.

32. What does the Constitution say about adjournments?
33. Why this limitation?
34. Why the limitation as to place?
35. On what does the duration of Congress depend?
36. What are the constitutional prohibitions on members?
37. How might members profit but for this prohibition?
38. What is the official oath?
39. Why should this oath be taken?
40. Who may be excused from taking it?

 LESSON XXV.—PROVISIONS COMMON, *Continued.*

The language of the Constitution on the subject of salaries is, "The senators and representatives shall receive a compensation for their services, *X. Salaries (21).* to be ascertained by law, and paid out of the treasury of the United States."

The salaries of the representatives are the same as the salaries of the senators. At first, in 1789, they were fixed at six dollars a day, and six dollars for every twenty miles' travel in going to and returning from the seat of government. This compensation has been increased from time to time by various acts of Congress. The salary of a member of either House at the present time is seven thousand five hundred dollars per year. That of the speaker of the House is twelve thousand dollars; of the president of the Senate, the same.

The Constitution says that the compensation is to be ascertained by law; which is by no means a very difficult matter, as the members make the law to suit themselves. As to the amount, there is no constitutional restraint or limit. The want of some provision of limitation was not

entirely overlooked by the authors of the Constitution. They thought it improbable, however, that such an authority placed in such hands would be abused; but, right or wrong, much complaint has been uttered on the subject.

The members of the British Parliament received no compensation whatever until 1911, when pay was provided for members of the House of Commons.

Many of the members of the convention that formed the Constitution were opposed to allowing salaries to senators and representatives. It was proposed to consider the honor of the position a sufficient reward, believing that this would secure the services of men of higher character and more distinguished ability.

But the majority of the convention were in favor of salaries, and this view prevailed. It was thought best that the salaries of members should be paid from the United States Treasury, as that would be more likely to secure promptness of payment, and consequently promptness of attendance. Under the Confederation, the members were paid by their respective States. The pay was often slow, and the attendance tardy and reluctant.

The Constitution says, "They shall, in all cases except treason, felony, 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."

This is a privilege accorded to members of all legislative bodies. But for it the House of Representatives might suffer great inconvenience in the transaction of business, and the congressional district, or the State, might be for a time without representation.

XI. Official Privileges.

1. From Arrest (21).

Prominent members of important committees, or even the speaker of the House of Representatives, might be detained from the performance of legislative duties at the instance of private creditors; and thus private interests would be allowed to interfere with the performance of public duties.

They can be arrested for crime only. An eminent English jurist says that it has immemorially constituted a privilege of both Houses of the British Parliament. It is also necessary in order to sustain the personal independence of the members.

For the purpose of securing entire freedom of discussion, no member of either House can legally be questioned elsewhere for anything which he may see fit to utter in debate in his place as a member; that is, he cannot legally be called to account before the courts, no matter how much he may slander private character. This provision is for the purpose of securing entire and unlimited freedom of discussion.

Of course, this is a right which may be, and sometimes is, abused; but the public interests may require the most critical and searching examinations into personal and official qualifications of individuals proposed as candidates for public stations of grave responsibility. Members should be allowed to perform these duties without fear of future personal retribution.

QUESTIONS.

41. What does the Constitution say about salaries?
42. How does the salary of a representative compare with that of a senator?
43. What was the salary of a member in 1789?
44. What is the salary now?
45. What are the salaries of the presiding officers?

46. Who fixes the amount of salaries?
47. Is there any provision in the Constitution as to the limit of the amount?
48. What is said about the salaries of members of the British Parliament?
49. What was the opinion of many of the members of the Constitutional Convention regarding salaries of senators and representatives?
50. Why should the salary be paid out of the treasury of the United States?
51. By whom was it paid under the Confederation?
52. Why should members be privileged from arrest?
53. For what may they be arrested?
54. What is the second privilege?
55. Why is this?

BLACKBOARD EXERCISE.

POWERS OF CONGRESS.

- I. *Finances.*
 1. *Resources.*
 - (a) *Taxes, Duties, Imposts, Excises* (26)
 - (b) *Borrow Money* (27)
 - (c) *Territory* (79)
 - (d) *Other Property* (79)
 2. *Disbursements.*
 - (a) *United States Debts* (26)
 - (b) *Common Defense* (26)
 - (c) *General Welfare* (26)
- II. *Commerce.*
 1. *Foreign Nations* (28)
 2. *Several States* (28)
 3. *Indian Tribes* (28)
- III. *Commercial.*
 1. *Coinage of Money* (30)
 2. *Value of Coin.*
 - (a) *Domestic* (30)
 - (b) *Foreign* (30)
 3. *Weights and Measures* (30)
 4. *Bankruptcy* (29)
- IV. *Penalties.*
 1. *Counterfeiting.*
 - (a) *United States Securities* (31)
 - (b) *United States Coin* (31)
 2. *Crimes on High Seas* (35)
 3. *International Offenses* (35)
 4. *Treason* (72)
- V. *Postal.*
 1. *Post Offices* (32)
 2. *Post Roads* (32)
- VI. *Patent and Copy Rights* (33)
- VII. *War.*
 1. *Declaration* (36)
 2. *Marque and Reprisal* (36)
 3. *Captures* (36)
 4. *Armies* (37)

5.	<i>Navy</i>	(38)
6.	<i>Rules.—Land and Naval Forces</i>	(39)
7.	<i>Militia.</i>	
	(a) <i>General Control.</i>	
	1st, <i>Organizing</i>	(41)
	2d, <i>Arming</i>	(41)
	3d, <i>Disciplining</i>	(41)
	4th, <i>Governing</i>	(41)
	(b) <i>Calling Forth.</i>	
	1st, <i>Laws of the Union</i>	(40)
	2d, <i>Insurrections</i>	(40)
	3d, <i>Invasions</i>	(40)
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	2. <i>Place of Trial</i>	(71)
	3. <i>Restrictions</i>	(70)
IX.	<i>Naturalization</i>	(29)
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	1. <i>Government</i>	(79)
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XI.	<i>States.</i>	
	1. <i>Elections.</i>	
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CHAPTER XII.

LESSON XXVI.—POWERS OF CONGRESS.

THE word “finances,” as here used, signifies the resources and disbursements of the country.

I. Finances.

The resources of a country are the pecuniary means which it has at its command.

1. Resources.

By our Constitution the resources consist in part of the power to lay and collect taxes, duties, imposts, and excises.

A tax is a sum of money levied on the property or inhabitants of a country for the support of the government. The power to lay and collect taxes *(a) Taxes, Duties, Imposts, Excises* belongs to every human government, without which the expenses thereof could not

be defrayed. This is one of the means which it has of enabling it to perform its obligations to the country. No government could sustain itself without regular and reliable resources.

Direct taxes are the kind here referred to. They are to be apportioned among the several States in the same manner as representatives; that is, in proportion to the representative population. Taxes are of two kinds,—direct and indirect. Direct taxes are such as are laid on the property of the country or on persons, the latter being called a capitation tax. Indirect taxes are such as are

levied on articles of consumption, of which no person pays, except in proportion to the quantity or number of such articles which he may consume.

Duties, imposts, and excises are also of the nature of indirect taxes. These must be uniform throughout the United States; that is, the same in all States.

The word "duties" refers to a kind of taxes levied on goods and merchandise imported or exported. In *our* country, an *export* duty is not permitted to be levied. The Constitution forbids it.

The imposts, under our government, are equivalent to customs, referring strictly to the duties on imports from foreign countries.

The word "excises" is applied more particularly to internal taxation, being levied on articles manufactured and consumed in the country, and also on various kinds of business. The money paid for licenses to sell liquors, or to deal in any other commodities, is called excises, or excise taxes.

Duties on imports are of two kinds, — specific and *ad valorem*, — and are collected at the customhouse. A specific duty is a certain sum of money charged according to quantity or weight, without any reference to the value of the articles weighed or measured; as a dollar on a yard of silk, or ten cents on a pound of tea.

"*Ad valorem*" is a word or phrase that signifies "according to the value of." *Ad-valorem* duties are levied on articles according to their value; as twenty-five per cent on the cost of cloth, and ten per cent on the cost of tea.

Duties are collectible at the customhouse where the goods are landed for consumption. Goods are estimated at their value where they are purchased, not where delivered. This is shown by the invoice, unless there is evidence of fraud in the bill; in which case, the proper

officers investigate the matter, and decide according to the proof.

If fraud is proved, the goods are forfeited to the use of the United States, and the perpetrator of the fraud may be punished for it as well as for the perjury.

The power to borrow money on the credit of the United States is classed among the government resources. It has (b) *Borrow Money* often been found to be of great importance (27). in sustaining the financial interests of the country. No country can sustain itself through a long and expensive war, simply on its ordinary income. All the great powers of the world have found it necessary, at one time or another, to borrow money.

In our wars with Great Britain and with Mexico, we found it necessary to borrow in large sums; but in our more recent domestic war we were compelled to run up our national debt to nearly three thousand millions, thus anticipating the government income for a quarter or half a century.

QUESTIONS.

1. What does the word "finances" mean?
2. Of what do the resources of this country consist?
3. What is a tax?
4. Why are taxes collected?
5. How many and of what kinds are taxes?
6. What are duties, imposts, and excises?
7. Of what kinds are duties, and where collected?
8. What is the result of fraudulent invoices?
9. Why has it been necessary for the United States to borrow money?

LESSON XXVII.—POWERS OF CONGRESS,

Continued.

The right of ownership always implies the right of transfer. The right to dispose of the territory of the United States is to be understood here in a restricted sense. The United States does ^{(c) Territory (79).} not own a State in fee simple, or in any sense implying an interest in its soil. The government has no authority whatever to sell a State to any foreign power.

The power of Congress herein referred to is limited to,—

- 1st, Unorganized and unoccupied tracts or territories.
- 2d, Public lands in parcels to settlers, or to individuals desiring to purchase.
- 3d, Disposing of them in any other way for the promotion of the general welfare.
- 4th, Ceding to States unoccupied lands lying within their boundaries, for literary or school purposes.
- 5th, Re-ceding to States, for instance, from which they have been obtained, any lands, when the purposes for which they were obtained no longer exist.

This power to dispose of the territory of the United States implies the power to sell the lands, or to give them away for the public good. Many of the Western States have received grants of large tracts of lands within their borders by act of Congress. In selling lands to individual purchasers, the government has received many millions into its treasury, so that the disposition of the territory belonging to the United States may be regarded as one of the national resources.

Congress is invested with power to dispose of other property of the United States. This doubtless includes every

species of personal property. In time of war, especially, a vast amount of personal property accumulates in the hands of government, such as ships, horses, wagons, guns, clothing for soldiers, etc., which become useless in time of peace, and may be disposed of to the advantage of the public treasury.

The disbursements of a government are the sums of money paid out by it. Congress is authorized to make appropriations for the following purposes:—

The only purposes for which the burden of taxes, duties, imposts, and excises can be imposed are to pay the debts and provide for the common defense and general welfare of the United States. The power of raising money through these means is for these definite and stipulated purposes.

Everything necessary for the welfare of the country is included in these powers of collecting money and disbursing it. The want of this, it will be remembered, was a serious defect under the Confederation. Before the adoption of the present Constitution, the government was utterly powerless to maintain its credit at home or abroad.

To provide for the common defense is one of the objects for which the various kinds of taxes may be imposed. A nation without the ability to protect itself from foreign invasion or domestic insurrection is destitute of one of the attributes of sovereignty essential to its independence. The army and navy are the organizations through which a nation demonstrates its strength in time of war. To support these on a scale commensurate with the wants of the United States necessarily requires the expenditure of immense sums of money. They will be further noticed in considering the war power of Congress.

To provide for the welfare of its citizens is the first duty of every government. Unable to do this, it will soon fail to command the respect, homage, and loyalty of its subjects; and no government, especially republican in form, can long exist without the regard and affection of the people. (c) *General Welfare (26).*

If there is a single sentence or clause in the Constitution more comprehensive of its purposes than any other, it is this one requiring Congress to make provision for the general welfare. Indeed, this is the one great object of its origin.

QUESTIONS.

10. In what sense is the right to dispose of territory to be understood?
11. What does the power here imply?
12. What was the country's credit under the Confederation?
13. What other object for imposing taxes?
14. What is the first duty of every government?

LESSON XXVIII. — POWERS OF CONGRESS, *Continued.*

Under the Confederation, Congress did not possess the power to regulate commerce. It belonged entirely to the several States; and each acted according to the dictates of its own interests. This produced angry disputes and rivalry between them, from which not only the several States, but the General Government, greatly suffered. *II. Commerce. 1. Foreign Nations (28).*

The authors of the Constitution, therefore, had no hesitation in conferring this power upon Congress. The vexations and bitter experiences of the past induced the country at large to readily accept this provision.

The disastrous troubles of the past had rendered it evident that the power to regulate foreign commerce and *2. Several States* interstate commerce ought to be in the (28). same hands. Indeed, they could not safely be separated. The power to regulate foreign commerce, if vested in Congress, it was believed might be so exercised as to compel foreign nations to meet us on terms of reciprocity.

But if the States were to be allowed to restrict each other, to cultivate rivalry of interests, and to foster the jealousies of the past, commerce must languish, and the whole country must suffer.

If goods landed or manufactured in New York or Massachusetts could not be sold and conveyed into Pennsylvania or Connecticut without being burdened with State restrictions, not only would feuds be cultivated among the States, but foreign commerce would be seriously embarrassed, if not wholly destroyed ; and this would strike a fatal blow at our national revenue.

Under the Confederation, Congress had but a limited power over commerce with the Indian tribes. They had *3. Indian Tribes* none, except with those tribes located outside the limits of the State. Within a (28). State the State itself had the authority. Each State adopted its own policy with this people : consequently there was no uniformity of traffic with the Indians ; and, this creating dissatisfaction among the tribes, frequent aggressions and depredations were the result.

That this power should be vested in Congress was indispensable, for three reasons : —

1st, Experience had proved that it was extremely hazardous to leave it with the States.

2d, Congress could much more easily command the confidence of the tribes than any State Legislatures.

3d, It was necessary for the preservation of the rights, and for the defense of the territory of the Indians themselves.

QUESTIONS.

15. With whom has Congress the power to regulate commerce?
16. Why was this power given to Congress?
17. What objections to State restrictions?
18. Why is it necessary that Congress should regulate commerce with the Indians?

LESSON XXIX.—POWERS OF CONGRESS,

Continued.

The power of Congress to coin money is one of the ordinary prerogatives of sovereignty. It is exercised for the purpose of securing a proper circulation of genuine instead of base coin in commercial transactions. In order to insure its purity and uniformity of value, the coining of money is placed exclusively under the supervision of the Federal Government. Money is the common standard by which the value of all articles of merchandise and real estate is measured or determined. Were it left to the States to coin money, there would be no uniformity in the standard of value; depending, as it would, on State lines and boundaries.

The advantages arising from placing this power exclusively in the hands of Congress are, —

- 1st, The facilitation of exchanges at home and abroad.
- 2d, The encouragement and stimulus which it imparts to commerce.
- 3d, The barrier which it erects against embarrassments arising from undue and forced scarcity.

4th, The uniformity of value which it insures, as it insures uniformity of alloy.

The power to regulate the value of domestic coin is expressly conferred on Congress by the Constitution. This

2. *Value of Coin.* is especially for the purpose of securing
(a) *Domestic Coin* entire uniformity of value, in order that it
(30).

may pass from hand to hand in business transactions, obviating the necessity of a test being applied to each piece of money in each commercial transaction. Every piece of money is stamped in such a manner as to indicate its precise value.

When at first metals were used as media of exchange, especially in ancient Britain, it was necessary to weigh such as were used, in every business transaction. It was also necessary to subject them to tests that would determine their purity.

They were not formed in the similitude of the beautiful coins of modern times.

The power of regulating the value of foreign coin is also given to Congress. If it were not for this power to

(b) *Foreign Coin* regulate the value of foreign coin, it would
(30) be very difficult to regulate the value of

domestic coin.

Different States might attach different values to the same piece of foreign coin. Massachusetts might call a piece of English money, known as a sovereign, five dollars; and New York, four dollars. A citizen of Massachusetts owing a citizen of New York five thousand dollars, to be paid in Boston, could compel the latter to accept a thousand sovereigns in payment; on which the citizen of New York would lose a thousand dollars if he used the money at home. Thus foreign coin would become an article of commerce, the same as any other commodity.

Congress has the express power to fix the standard of

weights and measures; but as yet it has not been fully exercised by this body.

3. Weights and Measures (30).

Until Congress fixes a standard, the understanding seems to be that the States possess the power to fix their own weights and measures.

The national government, however, has made possible the attainment of uniformity in weights and the most common measures, by supplying a set of uniform standards to all the States. Congress has also made it lawful to use the metric system of weights and measures, and has defined them in terms of the English weights and measures.

The power to pass or establish uniform laws on the subject of bankruptcies is classed here as among the commercial interests of the government. A law of this character is regarded as indispensable to the commercial interests of the country.

4. Bankruptcy (29).

A bankrupt is one who owes more than he can pay. Especially is he to be regarded as such when the question of his inability to pay his debts has been judicially ascertained. No State has a right to pass a bankrupt law, or any other law impairing the obligation of contracts.

The objects of a bankrupt law are twofold:—

1st, To enable creditors to secure an appropriation of all the property of a debtor who fails to pay his debts; allowing the courts, in such cases, to give the debtor a complete discharge from all indebtedness.

2d, To relieve unfortunate debtors from their debts, and from liability to imprisonment, on their own application, and surrender of all their property.

A bankrupt law must not be confounded with an insolvent law. An insolvent law simply relieves from a liability to imprisonment for debt, on the surrender of the debtor's property to the creditors: it does not discharge the indebtedness itself. In such cases, the future property of

the debtor may be seized for his debts, and appropriated to their payment. On the contrary, a discharge under a bankrupt law annihilates the debts themselves, and the creditors have no further claims.

QUESTIONS.

19. Why should the coinage of money be placed in the hands of the government?
20. What is money?
21. Why not leave coinage to the States?
22. Why should it be placed in the hands of Congress?
23. Why should government determine the value of money?
24. What was necessary when metals were first used?
25. Why was it necessary that Congress should regulate the value of foreign coin?
26. What is said about the standard of weights and measures?
27. What is a bankrupt?
28. What is the object of bankrupt laws, and how do they differ from insolvent laws?

LESSON XXX.—POWERS OF CONGRESS,

Continued.

Counterfeiting consists in making imitations of coin, bank-bills, or other securities, approaching so near to a likeness

IV. Penalties. of the originals as to deceive a person of
1. Counterfeiting. but ordinary experience.

The power to punish, or to prescribe the punishment as it is here to be understood, for counterfeiting the securities
(a) United States Securities (31). and current coin of the United States, is a necessity growing out of the power of Congress to coin money and to regulate its value.

We have seen that Congress has the sole power to coin money. It consists chiefly of gold and silver, and is struck
(b) United States Coin (31). at the mint in denominations adapted to the uses of commerce.

Without the power to attach severe penalties to the crime of counterfeiting, the securities and coin of the United States would soon become comparatively worthless; the country would be filled with spurious bills, bonds, and coin; and it would not be long before money would cease to be a medium of exchange among the masses, who are unskilled in detecting the counterfeit from the genuine.

Congress is vested with power to define and punish piracies and felonies when committed on the high seas. In pursuance of this authority Congress has passed several acts on the subject. For instance, in 1820 the foreign slave trade was made piracy, punishable by death.

2. Crimes on High Seas.

(a) *Piracies (35).*

(b) *Felonies (35).*

From the foundation of our government, until 1808, the foreign slave trade was lawful commerce. Congress has the power to enlarge or contract the definition of "piracy" from its common-law meaning. Sir William Blackstone defines "piracy" at common law to consist in committing those acts of robbery and depredation on the high seas, which, if committed on land, would amount to felony.

"Felony" is another word of common-law definition. The author last quoted defines it to be every species of crime which at common law occasioned the forfeiture of the lands and goods of the criminal; and this happens most frequently in those crimes for which a capital punishment is or was inflicted.

Therefore "felony" is a word of generic import, and includes many crimes, such as murder, larceny, arson, burglary, etc. The Constitution authorizes Congress to change this common-law definition of "felony" in cases where it may be necessary to do so. When committed on the high seas, it could not properly be left with the States to define it, as the jurisdiction of offenses not committed

within State limits must necessarily be restricted to the Federal courts.

The high seas embrace not only the waters of the ocean which are out of sight of land, but also the waters on the sea coast below low-water mark, whether within the territorial boundaries of a nation or within those of a domestic State.

The Constitution says that Congress shall have the power to declare the punishment of treason. This crime consists in levying war against the United States, or in adhering to their enemies, giving them aid and comfort. In 1790 Congress affixed to this crime the penalty of death. In 1862 Congress passed another act, punishing treason with death, or imprisonment for not less than five years, and a fine of ten thousand dollars, and the slaves of the party convicted to be free. This act was passed before the abolition of slavery in the United States.

QUESTIONS.

29. What is counterfeiting?
30. Why is punishment for counterfeiting the securities and current coin of the United States necessary?
31. What is the power of Congress over piracies and felonies committed on the high seas?
32. What is piracy at common law, and what power has Congress with reference to defining the same?
33. How is "felony" defined, and what is said in regard to changing this definition when necessary?
34. What are the high seas?
35. What is treason?
36. What penalty has Congress attached to this crime?

LESSON XXXI.—POWERS OF CONGRESS,

Continued.

The power to establish post offices and post roads is given to Congress by the Constitution. Nothing like a uniform postal system could have been established and carried on had the matter been left to the several States. There would have been as many different postal systems as there are States.

Under such a system, or rather such a want of system, the burdens must be unequal. It is far more expensive to transport the mails in some parts of the country, mile for mile, than in others. Yet it is in a high degree important to the whole country that the forest and the prairie be subjected to the hand of cultivation. And who will become pioneer, if he must be shut out from all communication with that world which he has left behind?

The general superintendence and direction of the Post Office Department is under the care of the postmaster-general. He has the establishing of post offices, appoints most of the postmasters, and has the letting of the contracts for carrying the mails.

Some of the postmasters in the larger offices are appointed by the President, by and with the advice and consent of the Senate. Formerly postage was at much higher rates than now. From the beginning of the postal system in this country, down to 1845, the rates of postage on a letter weighing half an ounce, or less, ranged from six to twenty-five cents, depending on the distance it was carried. For each additional half ounce or less, an additional postage was charged.

From 1845 to 1851 the rates of postage were five cents for half an ounce or less, if carried less than three hun-

dred miles, and ten cents if conveyed over three hundred miles. In 1851 the uniform rate of postage on letters not exceeding half an ounce was fixed at three cents, if not conveyed over three thousand miles and wholly within the United States. In 1870 the three-cent rate was extended to include all points within the United States, the limit of three thousand miles being removed ; and in 1883 this rate was further reduced to two cents ; while in 1885 the weight covered by this low rate was increased to one ounce.

For letters sent to foreign countries, various rates have been established (higher than these), the rates depending on the countries to which the letters are sent.

In 1790 there were but seventy-five post offices in the United States. In 1900 there were upwards of 75,000. The aggregate number of miles traveled in carrying the mail, in 1790, was 7,365 ; in 1900, about 450,000,000.

It is encouraging to know, that, under the cheap postage plan with which the American people are now favored, the Post Office Department is nearly self-sustaining.

A post road is a road established as such by authority of law, over which the government mails are to be regularly carried.

2. *Post Roads* (32).

It has not been necessary, except in a few instances, that Congress should exercise their power to establish post roads. Generally the roads already opened by the inhabitants of the country through which the mails are conveyed have been found sufficient. They are regularly selected, and declared, however, to be post roads, before being used as such. The waters on our rivers and lakes, over which travel is public and regular, are, in many instances, established as post roads in this way.

The mails are carried by private individuals, or by railroad or steamboat companies, the contract being made

with the postmaster-general in behalf of the United States. He advertises for bidders, and lets the contract in each case to the lowest responsible bidder. Those who are in immediate charge of the mails are sworn to the faithful discharge of their duties.

The Congress shall have power, the Constitution says,
 “To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their *VI. Patent and Copy Right (33).* respective writings and discoveries.”

Under the Confederation, the power did not belong to Congress to make provisions for patent and copy rights. From the very nature and character of the interest, these rights could not be protected by the several States to authors and inventors; for State legislation could not afford the necessary protection to authors, as their legislation could only cover their own respective territorial boundaries.

A *copyright* may be secured to authors for books, maps, charts, musical compositions, cuts and engravings, or for any other literary and scientific productions. The copyright extends for twenty-eight years; and if, at the end of that time, the author is still living, he may obtain its extension for twenty-eight years longer; or, if dead, his living representatives may obtain its extension; making, in all, fifty-six years.

The expense of securing a copyright is but a trifle, — only about a dollar. When procured, it insures to the author during its continuance a monopoly of the publication and sale of his work.

Any one desiring to secure a copyright should write to the librarian of Congress for a circular of instructions; and he will receive one, without charge, by early mail.

Patents are issued by the Patent Office at Washington,

giving the inventor of any new and useful machine, instrument, manufacture, or composition of matter, or any new and useful improvement of them, the monopoly in their manufacture and sale for the term of seventeen years.

This patent right is secured to the inventor by the issue of what are called letters patent. To obtain letters patent, the applicant must make a distinct specification, giving a full and complete description of his invention; and in cases admitting of drawings, these must be made, and all deposited with the commissioner of patents. Sometimes a model also is required. The Patent Office belongs to the Department of the Interior.

Letters patent cost the patentee thirty-five dollars, fifteen of which must accompany the application. The further sum of twenty dollars must be paid on their issue. The fifteen dollars that accompany the application will not be refunded should letters patent be refused, but will be retained to pay for making search through the Patent Office to ascertain whether there is not some conflicting patent already in existence.

Circulars may be obtained, without charge, giving full information on this subject, by addressing the Patent Office, requesting them to be forwarded by mail.

QUESTIONS.

37. Why should not the postal system be committed to the States?
38. Why should it be committed to Congress?
39. Under whose immediate care is the Post Office Department?
40. How are postmasters appointed?
41. What were former rates of postage?
42. What changes have taken place in them?
43. How many post offices in the United States?
44. What is a post road?
45. How are the roads established?
46. By whom are the mails carried, and how are the contracts let?

47. What does the Constitution say about patent and copy rights?
48. Why might not this subject be left with the several States?
49. How long does a copyright continue?
50. What is the expense of obtaining it?
51. What is a patent right?
52. What are the steps necessary to secure it?
53. What is the expense of letters patent?
54. How long does a patent continue?

LESSON XXXII. — POWERS OF CONGRESS,

Continued.

A declaration of war is a solemn, formal, and deliberative notice to all the world in general, and particularly to the citizens of both nations involved, that hostilities actually exist, or are about to commence.

VII. War.
1. Declaration (36).

The power to declare war is one of the ordinary prerogatives of sovereignty. As we have no person in this country whom we acknowledge as sovereign, of course there is no one who has the authority to declare war.

In this country the will of the people, when clearly known, whether exercised by direct vote or through the indirect forms of legislation, is the only sovereign to which the American people pay homage. Could that will be definitely ascertained without delay, the power to declare war should be vested in the people, to be ascertained by direct vote. But this is utterly impracticable: hence the war power is vested in Congress, that being the representative body of the whole nation.

When a formal and solemn declaration of war has been made by Congress, peace can be secured only through the negotiations of ambassadors or ministers representing the contending powers. After the ministerial or ambassadorial

conference has agreed on the terms of peace, the power to accept or reject those terms on the part of the United States belongs to the President and Senate. It requires a concurrence of two thirds of the senators present to conclude a treaty of peace.

The power to grant letters of marque and reprisal also belongs to Congress. These are sometimes issued by the *2. Marque and Reprisal (36)* government to prevent the necessity of a declaration of war. This may be done when the subjects of one nation have been injured or oppressed by another nation that refuses to grant indemnity for the injury.

Letters of marque signify a license from the government to pass beyond the limits or jurisdiction of one's own country; and *reprisal* signifies a taking in return. Letters of marque and reprisal are a commission from the government authorizing the bearer to pass beyond the boundaries of his own country for the purpose of capturing prizes of the enemy, consisting of their persons or goods.

In case it so happens in their conflicts that they are taken prisoners, the letters of marque and reprisal from their government indicate to the captors that they shall be treated as prisoners of war; and that, in case they should be treated otherwise, their government would retaliate.

But it is necessary that rules should be adopted concerning captures made, whether on land or water. Congress is *3. Captures (36)* authorized by the Constitution to make these rules, which, when made, become laws the same as any other laws; and, for the purpose of enforcing them, courts of admiralty have been established, whose business it is to inquire into the legality of the course pursued in taking these prizes.

The remedy for illegal acts of capture is by the institu-

tion of proper prize proceedings in the prize courts of the captors.

The other war powers vested in Congress would be utterly useless without the power to raise and support armies.

The Constitution says that Congress shall have power to raise and support armies, but that no appropriation of money to that use shall be for a longer term than two years. *4. Armies (37).*

The army is created by enlistments under the acts of Congress. The enlistment is for five years in the Regular Army. In time of war volunteers are enlisted for shorter terms.

Congress has the power to provide and maintain a navy. The navy consists of the entire number of ships of war, considered collectively, belonging to a nation or people. A navy is necessary for the protection of our fisheries, commerce, and navigation. We need it not only on the ocean, but also on our lakes and on several of our rivers, and this even in time of peace. *5. Navy (38).*

But in time of war a navy becomes indispensable to a people whose geographical position is like ours. Without it, the necessary protection could not be afforded to the great commercial cities on our seaboard. Should an invading army obtain possession of these, they could demand contributions without stint or limit.

QUESTIONS.

55. What is a declaration of war?
56. What is the sovereign power in this country?
57. In whom is the power to declare war vested?
58. After a declaration of war, how can the terms of peace be settled?
59. What are letters of marque and reprisal?

60. What protection do letters of marque and reprisal afford?
61. What power decides on the legality of captures?
62. Who makes the rules concerning captures, and whose business is it to see that these rules are enforced?
63. What is the remedy for illegal captures made either on the land or on the water?
64. What does the Constitution say about the power to raise and support armies?
65. How is the Regular Army created, and how long is the term of enlistment in the same?
66. What is the navy, and in whom is the power vested to provide and maintain the same?
67. What is the necessity of a navy, and when is one indispensable to a people whose geographical position is like ours?

LESSON XXXIII.—POWERS OF CONGRESS,

Continued.

By the Constitution, Congress has power to make rules for the government and regulation of the land and naval forces.

6. Rules.—Land and Naval Forces (39). Nothing need be said to indicate the policy and necessity of vesting in Congress the power to make rules for the government and regulation of the land and naval forces. It naturally follows the power to raise and support armies, and to provide and maintain a navy.

Congress is authorized by the Constitution “to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.”

7. Militia.
(a) General Control (41).

The country could not safely rely solely on its standing army for any and every emergency that might arise. The Constitution, therefore, gives Congress jurisdiction over the militia of the several States, and this power of providing for organizing, arming, and disciplining them, as incidental to that jurisdiction.

Congress is authorized also to make provision for governing such part of the militia as may be employed in the service of the United States. Rigid discipline and government have always been found necessary in the army, whether constituted of regulars or militia. This government must be uniform to be salutary. To be uniform, it must emanate from a single source.

(b) *Calling
Forth (40).*

There are three purposes for which Congress may make provision for calling forth the militia:—

- 1st, To execute the laws of the Union.
- 2d, To suppress insurrections.
- 3d, To repel invasions.

The nation must have the means of maintaining its authority at home, as well as of carrying on a foreign war. It is not according to the policy of our government to maintain a standing army sufficient to answer all of these purposes.

The organization of the militia is maintained at an expense comparatively trifling, when the advantages to the country are considered. It saves the immense cost of a large standing army in time of peace. The standing army of the United States has usually numbered less than thirty thousand. The standing armies of the European nations are much larger.

The British army numbers about two hundred thousand men; the Austrian army, about three hundred thousand men; and the Russian army numbers about eight hundred thousand men.

The organization of the militia system in this country is preferred for the following reasons:—

1st, It is far more economical, as it costs but little to maintain it in time of peace.

2d, In time of war, after an experience of a few months in the field, they have proved themselves to be orderly and courageous to the last degree.

3d, The militia constitute a standing and reserved force, subject to the call of the President of the United States under the laws of Congress.

The laws enacted by Congress define the emergencies under which the President of the United States is authorized to bring into action this branch of our service.

When called into the service of the United States, the President of the United States is commander-in-chief of the militia of the several States, as well as of the standing army of the nation.

QUESTIONS.

68. According to the Constitution, what power has Congress regarding the government and regulation of the land and naval forces?
69. What power has Congress over the militia, and why the necessity of this power?
70. For what purposes may Congress provide for calling forth the militia?
71. What are the advantages of the militia system?
72. What is the number of our army as compared with some European armies?
73. Why is the organization of the militia system preferred in this country?

LESSON XXXIV. — POWERS OF CONGRESS,
Continued.

The Constitution establishes a Supreme Court, but it is left with Congress to organize that tribunal. The power is vested in Congress to establish tribunals *VIII. Judiciary.* inferior to the Supreme Court; and, as *1. Inferior Tribunals (34).* these tribunals constitute a part of the national judiciary, they will be considered in the chapter relating to that department of the government. These inferior tribunals consist of circuit and district courts.

Congress has the power to determine by law where the trials of crimes shall be held which are not committed within any State. Crimes committed within any State are to be tried in the State where *2. Place of Trial (71).* they are committed, yet they may be committed on the high seas, or within the limits of unorganized territories. This clause of the Constitution gives Congress the power to provide for such cases.

The appellate jurisdiction of the Supreme Court is subject to such exceptions and regulations *3. Restrictions (70).* as Congress shall from time to time establish by law. This power will be noticed in treating of the judiciary.

Naturalization is that legal process by which an alien or a foreigner becomes a citizen of the United States. Congress has exclusive control over this sub- *IX. Naturalization (29).* ject. It can determine the forms and the necessary steps to be adopted in the process, and the time within which it may be completed.

An alien is one who is born in a foreign country, of foreign parentage. Children born in foreign countries,

of parents who are citizens of the United States absent from home on public business, are not aliens.

Under the Confederation, each State determined for itself the conditions on which an alien might become a citizen of the United States. Some required a shorter, and others a longer, period of time. If New Jersey required one year for naturalization, and New York seven, the shortest way to become a citizen of New York would be through naturalization in New Jersey; for a citizen of any State was a citizen of any other State in which he might become a resident.

Congress, having control of this subject under the Constitution, passed a law, in 1790, requiring two years; in 1795, five years; in 1798, fourteen years; and in 1802 that law was passed, which has been in force ever since, requiring five years to complete the process of naturalization.

A soldier, having served one year in the United States Army, and having obtained an honorable discharge, may become a citizen of the United States on making oath to these facts, and taking the oath of allegiance to our government.

With the above exception, five years is the shortest possible time for naturalization. At least two years before final admission, the alien must make formal declaration of his intention to become a citizen. This he can do in any court having jurisdiction of the subject-matter.

Not less than two nor more than seven years from the time of declaring his intention, he must again appear in court, and if found qualified, he will be permitted to take the oath of allegiance in the proper form, on which he is admitted to full citizenship. The applicant first makes and signs a petition stating his residence, age, etc., and declaring his intention to renounce all allegiance to foreign powers

and to reside permanently in the United States. Ninety or more days later he and two citizen witnesses must be examined by the court, and must prove that the applicant is of good character and has resided in the United States five years, and in the State or Territory where the court is held, one year. He must be able to speak English, unless he has made homestead entry upon public land. If the judge is satisfied on all these points, the applicant takes the proper oaths and is given a certificate of naturalization.

When a foreigner becomes naturalized, his children under twenty-one years of age, if residents of the United States at the time, become citizens without further formality. If a foreigner makes his declaration of intention to become a citizen of the United States, and dies before the time to become naturalized, his wife and children may become citizens of the United States at that time, on taking the necessary oath.

QUESTIONS.

74. What power has Congress over the courts ?
75. What power has Congress over places of trial ?
76. What is naturalization ?
77. What power has Congress over this subject ?
78. What is an alien ?
79. How long does it take an alien to become a naturalized citizen of the United States ?
80. What is the process of naturalization, and what is the shortest possible time in which it may be completed ?
81. How does naturalization affect other persons of the same family ?

LESSON XXXV.—POWERS OF CONGRESS,
Continued.

Ownership of territory by any government implies the right to govern it, and the right to govern implies the right

X. Territory. to make all needful rules and regulations
1. Government for that purpose. Hence this provision of
(79). the Constitution: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States."

Since the close of the revolutionary war the General Government has acquired, by one means and another, a vast extent of territory beyond the limits of the original States.

First, by the liberality of the States owning it, the General Government acquired that immense region known as the Northwestern Territory. This was before the adoption of the Constitution.

Second, we acquired of France the Louisiana territory:

Third, we purchased Florida of Spain.

Fourth, we acquired Texas.

Fifth, we obtained California, etc., of Mexico.

Sixth, we purchased Alaska of the Russian Government.

Seventh, we annexed the Hawaiian Islands.

Eighth, we acquired Porto Rico and the Philippines.

The extent of our territory now is over three times what it was at the adoption of the Constitution. Congress adopts the necessary rules and measures to govern all territory owned by the United States until such time as it is erected into independent States, and admitted into the Union.

2. Seat of Govern- The constitutional provision gives Con-
ment (42). gress the power

"To exercise exclusive legislation in all cases whatsoever,

over such district, not exceeding ten miles square, as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States.”

Under this clause, Judge Story says, the cession of the present District of Columbia was made by the States of Maryland and Virginia to the National Government; and the present seat of the National Government was established at the city of Washington in 1800. That convenient spot was selected for this very purpose by the exalted patriot whose name it bears.

The District of Columbia was a tract of land ten miles square, belonging partly to Maryland and partly to Virginia. That part of it obtained from Virginia was re-ceded to that State in 1846, so that now the District is confined to the Maryland side of the Potomac.

Before the year 1800 the seat of government had been temporarily established at Philadelphia, Baltimore, Lancaster, and several other places. On account of the frequent changes, the public suffered great inconvenience.

The Congress has the same authority, by the Constitution, “over all places purchased by consent of the Legislatures of the States in which the same *3. Public Works* shall be, for the erection of forts, maga- (42). zines, arsenals, dock-yards, and other needful buildings.”

Two steps are necessary to obtain a site for any of the foregoing purposes, — first, the consent of Congress; and, second, the consent of the Legislature of the State in which the proposed site is. When the cession is made, the government comes into full possession, and then Congress may exercise over such place exclusive legislation.

Unless the State of which such purchase is made re-

serves the right, no legal State authority can be exercised in such places, even to the serving of writs of any kind, civil or criminal. But States usually make such reservations, but for which these places might become retreats and asylums for fugitives from justice who may be guilty of crimes against State authority. Almost every State has more or less of these places within its limits subject to the jurisdiction of national authority.

The power to dispose of the territory belonging to the United States has been discussed in another place, and therefore need not be repeated here (see TOWNSEND'S *Analysis of Civil Government*).

“New States may be admitted by the Congress into this Union.” Under the Confederation, Canada might have been admitted by “acceding to the Union, and joining in the measures of the United States ;” but the admission of any other British province would have required the consent of nine States, and they never made application. No power except that just specified was given to Congress in the Articles of Confederation to admit States into the Union.

As there were immense tracts of vacant territory lying within the chartered limits of several of the States, the omission to confer this power on Congress was doubtless an oversight.

This was a serious omission, as the events of our history since the adoption of the Constitution have proved. By the liberality of the States owning this territory, it was early ceded to, and became the common property of, the United States. These State cessions began with New York in the year 1781, followed by Virginia, Massachusetts, Connecticut, South Carolina, and North Carolina, at various dates, and closing with Georgia in the year 1802.

Since that time, as already stated in another place in this work, we have, by purchase and treaty, added immensely to the territory of the United States.

It was foreseen by the authors of the Constitution that this power to admit new States into the Union would soon become necessary, and it was accordingly vested in Congress. Under this provision, thirty-five States have been added to the American Union, making the total number forty-eight, occupying all the main body of the United States.

QUESTIONS.

82. What does the ownership of territory by any government imply?
83. What territory did our government acquire before the adoption of the Constitution?
84. What other territory has the General Government acquired since the close of the revolutionary war?
85. What is the present extent of our territory, and how much has it increased since the adoption of the Constitution?
86. What is the duty of Congress with reference to this vast territory?
87. What power does the Constitution give Congress over the District of Columbia?
88. Over what other places has Congress like authority?
89. How can these be obtained?
90. What reservations do States usually make over these places, and why?
91. What provisions did the Confederation make in regard to the admission of provinces or new States?
92. At what dates did several of the States make cessions of territory to the United States?
93. How is the necessity of this power shown?

LESSON XXXVI. — POWERS OF CONGRESS,
Continued.

It is left with the States to fix the times, places, and manner of holding their elections of senators and representatives in Congress ; but, should they neglect to do this, Congress has jurisdiction over the whole subject, except as to the places of choosing senators.

- XI. States.*
1. Elections.
(a) Members of Congress (15).

Each State can consult its own local convenience with regard to these elections ; but it has no right to wholly neglect making the necessary provisions for holding them. Should it do so, and should other States follow the bad example, it is manifest that the affairs of government might suffer serious embarrassment, but for the provision giving Congress jurisdiction over the subject. It would be equivalent to a withdrawal of their representation from the national councils. This would be a violation of a fundamental principle of every sovereignty, which is an inherent right to provide for the perpetuity of its own existence.

The power here given to Congress is simply discretionary, not mandatory ; and such a power must be vested somewhere. It is primarily with the States, but ultimately with the National Legislature.

Congress has provided for the election of members of the House of Representatives by congressional districts, and the day of their election is the same in nearly all the States.

Congress has also exercised supervision to a limited extent over the manner of electing senators.

The Constitution says, "The Congress may determine the time of choosing the electors, and the day on which

they shall give their votes, which day shall be the same throughout the United States.”

Jan. 23, 1845, Congress passed an act *(b) Presidential Electors (58)* specifying that electors should be elected the Tuesday next after the first Monday in the month of November of the year in which they are to be chosen.

The second Monday in January after their election is, by law of Congress, the day fixed on which the electors shall give their votes. Each State fixes by law the place where these votes shall be given, and they have generally designated the State Capitol.

The Constitution says with reference to State records, “Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.” *2. State Records.*

Under a clause of the Constitution, when a judgment is rendered by any State court in proper form, from which no appeal has been taken to any higher court within the time allowed for appeals, *(a) Method of Proving (74)* that judgment is conclusive ever after, between the parties to it, as to the matters in controversy. That judgment will be received in evidence when offered in any other court within the limits of the State within which it was rendered.

Under this power, Congress has passed laws defining the manner in which they shall be authenticated, and the effect to be given to their authenticity.

Congress has declared that they shall have such faith given to them in every court within the United States as they have by law or usage *(b) Effect of Proof (74)* in the courts of the State from which the records are taken.

The effect, therefore, of the proof is this: that a judg-

ment obtained in a court of competent jurisdiction in one State is valid in every other State in the Union.

By the Constitution, States are prohibited from laying **3. *Imposts and Duties (53).*** any impost or duties on imports or exports without the consent of Congress, except what may be necessary for the execution of their inspection laws.

If States should attempt to lay burdensome inspection duties, Congress has the power to pass acts of revision, and, in case it becomes necessary, to control the whole subject.

The subject of impost and duties, we have seen, is exclusively under the control of Congress; and, should a State attempt by some indirect method to lay duties or impost, Congress has the higher right to control and revise its legislation.

If the office of President of the United States is vacated, by death or otherwise, the powers and duties of that office devolve on the Vice-President; but it is **XII. *Executive Vacancy (60).*** possible that both the President and Vice-President might be removed from office, and the Constitution therefore provides for such a possibility in the following language:—

“The Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly until the disability be removed or a President shall be elected.”

Under this provision of the Constitution, Congress has provided by law that the secretary of state, and after him the heads of the other executive departments in a specified order, shall succeed to the duties of the President until the disability be removed or a President shall be elected;

but such officer must be constitutionally eligible to the presidency, and not under impeachment.

QUESTIONS.

94. What power has Congress over State elections of members?
95. What is the duty of States as to these elections?
96. How has Congress provided for the election of representatives?
97. What authority has Congress over the election of presidential electors?
98. When must electors be elected, and when give their votes?
99. What does the Constitution say of State records?
100. What laws has Congress passed on this subject?
101. What is the effect of judgments?
102. What power has Congress over the laws of States in regard to imposts and duties?
103. What power has Congress over the power of Executive vacancy?
104. What law has Congress passed on the subject?

LESSON XXXVII.—POWERS OF CONGRESS,

Continued.

The Constitution says, "The Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments."^{XIII. Appointments (64).}

These appointments are restricted to inferior officers. The Constitution does not say who are such: it is therefore left to Congress to define this class. Neither the heads of departments, nor the judges of courts, nor ambassadors to foreign countries, are inferior officers. They doubtless include clerks of departments, clerks of court, and some other officers.

Congress has no power to alter or amend the Constitu-

tion ; but they can take the initiatory steps. They can submit propositions to the States for this purpose whenever, in the estimation of two thirds of the members of both Houses, amendments become necessary.

XIV. Constitutional Amendments (81).

If two thirds of both Houses deem it necessary that any amendments should be made to the Constitution, the amendment proposed is drawn out in due form under the direction of Congress, and proposed to the Legislatures of the several States for their ratification or rejection ; or the proposed amendments may be submitted to State conventions called for that purpose.

Or on the application of the Legislatures of two thirds of the several States, made to Congress, it is the duty of that body to call a convention whose business it shall be to propose amendments.

It is further the duty of Congress, by whichever body the amendments shall be proposed, to declare whether they shall be submitted to State Legislatures or to State conventions.

When these new amendments are ratified by the Legislatures of three fourths of the States, or by conventions in three fourths thereof, they become, to all intents and purposes, part of the Constitution.

Thus far, fifteen articles of amendment have been adopted. These have all originated with Congress, and have been ratified by State Legislatures.

The Constitution, as it came from the hands of its authors in 1787, recognized slavery as a State institution. *XV. Slavery (44), True, the word "slave," or "slavery," is not in the instrument. These words were carefully and intentionally omitted.* (97).

In the Thirteenth Article of Amendment the word "slavery" appears for the first time in the Constitution, and

that article abolishes the institution throughout the United States and their Territories.

This amendment gives Congress legislative authority over the subject. As four or five millions of men, women, and children were suddenly transferred from slavery to freedom, it was presumed that national legislation would become necessary to protect them in their new condition. Congress has already exercised this power in the passage of several statutes on the subject.

QUESTIONS.

105. In whom may Congress vest the appointment of inferior officers?
106. What power has Congress over constitutional amendments?
107. When and how may it be exercised?
108. How many amendments have been adopted?
109. Where, and for what purpose, does the word "slavery" appear in the Constitution?

LESSON XXXVIII.—POWERS OF CONGRESS, *Continued.*

By the forty-third paragraph of the Constitution as numbered in this work, which it is not necessary to repeat here, it will be seen that the whole subject of *XVI. General Lawmaking (43)*, for the purpose of carrying into effect the provisions of the Constitution, is vested in Congress.

As it is impossible to specify in the fundamental law of a nation all the powers which at some time it may be indispensably necessary to exercise for the common good, this provision seems to be among the wisest to be found in the Constitution.

Had the attempt been made to enumerate affirmatively all laws necessary and proper which Congress might pass, it must have resulted in failure.

An eminent jurist says it would have rendered necessary a complete digest of all laws on every subject to which the Constitution relates. It must have embraced all future as well as all present exigencies, and been accommodated to all times and all occasions, and all changes of situation and character.

The Constitution says, "The Congress shall assemble *XVII. Frequency and Time of Meeting (16).* at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

On extraordinary occasions the President of the United States may convene either or both Houses of Congress; but a bad President might desire to have no Congress during his administration. In such case, there would be a practical demonstration of the necessity of the foregoing provision.

Again: it seems necessary that the Constitution should contain some such provision, as otherwise the two Houses of Congress might not agree in reference to the time of assembling. By this provision, if they cannot agree on any other time, they must meet on the first Monday in December.

The place of meeting is not designated, and probably for two reasons: first, the seat of the National Government had not been established at the time when the Constitution was formed; and, second, war or pestilence might at times interfere with the meeting at any place that might be named in the Constitution.

In England the sovereign convenes and dissolves Parliament at pleasure.

QUESTIONS.

110. What power does the forty-third paragraph of the Constitution give to Congress over general lawmaking ?
111. How often and when must Congress meet ?
112. Why was it necessary that the Constitution should specify a time of meeting ?
113. Why is not the place of meeting named ?

BLACKBOARD EXERCISE.

LAWMAKING.

First Process.

1. *Action in Congress* (24)
2. *Delivery to Executive* (24)
3. *Executive Signature* (24)

Second Process.

1. *Action in Congress* (24)
2. *Delivery to Executive* (24)
3. *Executive Veto* (24)
4. *Record of Veto* (24)
5. *Reconsideration* (24)
6. *Approval by Congress* (24)
7. *Method of Voting* (24)
8. *Record of Votes* (24)

Third Process.

1. *Action in Congress* (24)
2. *Delivery to Executive* (24)
3. *Executive Neglect* (24)
4. *Effect of Neglect* (24)

Orders, Resolutions, and Votes.

1. *Action in Congress* (25)
2. *Delivery to Executive* (25)
3. *Executive Veto* (25)
4. *Subsequent Action* (25)

CHAPTER XIII.

LESSON XXXIX.—LAWMAKING.

By reference to Paragraph (24) of the Constitution, it will be seen that a bill may become a law through any one of the three following processes:—

FIRST PROCESS.

1. The bill shall pass both Houses of Congress.
2. It shall then be presented to the President.
3. If he approve, he shall sign it.

SECOND PROCESS.

1. The bill shall pass both Houses of Congress.
2. It shall then be presented to the President.
3. If he disapprove it, he shall return it, with his objections, to that House in which it originated.
4. That House shall enter objections at large on their journal.
5. They shall proceed to reconsider it; and if, after such reconsideration, two thirds of the House shall agree to pass it, it shall be sent, with the objections, to the other House.
6. The other House shall reconsider the bill; and, if approved by two thirds of that House, it shall become a law.

7. The votes of both Houses shall be determined by the yeas and nays in all such cases.

8. The names of the persons voting for and against the bill shall be entered on the journal of each House respectively.

THIRD PROCESS.

1. The bill shall pass both Houses of Congress.
2. It shall then be sent to the President.
3. He neglects to approve or return it.
4. It becomes a law at the end of ten days (Sundays excepted), unless Congress, by adjournment within that time, prevent its return.

A bill is the draught of a proposed law. It is usually, though not always, introduced by the chairman of the committee who properly has the subject-matter of the bill in charge. As to what committee will introduce it depends on the character of the bill. If it relate to commerce, the Committee on Commerce would be the proper one to originate and introduce it. A bill may be amended by either House; but, if amended by one House after having passed the other, it must be returned, with the amendment, to the House it had before passed, for their concurrence.

After it has passed both Houses, it is sent to the President of the United States for his approval and signature. He cannot make or propose amendments.

At any time during the pendency of a bill, amendments to it may be proposed, and passed, by either House.

A bill in Congress must receive three several readings before it is put upon its final passage. No bill can be read more than once on the same day without the special permission of the House. The vote is taken on its third reading. The arguments for and against the bill, if any,

are made before its third reading, or between its third reading and the taking of the vote.

The second process of lawmaking is the one in which the President's veto, as it is commonly called, is interposed. To become a law in opposition to the President's objections requires a vote by yeas and nays of two thirds of each House. So the President's veto is only qualified, not absolute.

This executive power may operate, and indeed it has sometimes, as a salutary check on hasty legislation. The Executive, not having participated in the rivalry of debate, and being quietly retired from the scenes of political strife, may be presumed to be better qualified to pronounce correct judgment than those who were active in the contest.

The third process of lawmaking differs from the other two, simply through the inaction of the President. If he neglect to sign and return the bill for ten days, Sundays excepted, it becomes a law as though it were signed by him; unless the Congress, by their adjournment, prevent its return, in which case it fails to become a law.

ORDERS, RESOLUTIONS, AND VOTES.

The Constitution says, "Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

Were it not for this provision, Congress might exert their power in the form of orders, resolutions, or votes, thus preventing the President from interposing his veto. They

could thus substantially legislate in these forms without the sanction of the Executive, and without the necessity of a vote of two thirds of each House.

QUESTIONS.

1. What is the first process of lawmaking?
2. What is the second process of lawmaking?
3. What is the third process?
4. What is a bill?
5. By whom is it generally introduced?
6. What is said about amendments?
7. What is done with the bill after it has passed both Houses?
8. What may be done during the pendency of a bill?
9. What is said about the readings of a bill?
10. What is said about the President's veto?
11. What may be the effect of the veto power?
12. Why is the President the best judge?
13. How does the third process of lawmaking differ from the first two?
14. What does the Constitution say about orders, resolutions, votes?
15. But for this provision, what might Congress do?

BLACKBOARD EXERCISE.

PROHIBITIONS ON THE UNITED STATES

I. <i>Habeas Corpus.</i>	
1. <i>Rebellion</i>	(45)
2. <i>Invasion</i>	(45)
II. <i>Export Duties</i>	(48)
III. <i>Interstate Commerce</i>	(49)
IV. <i>Public Money.</i>	
1. <i>Drawing</i>	(50)
2. <i>Published Statement</i>	(50)
3. <i>For Armies</i>	(37)
V. <i>Nobility</i>	(51)
VI. <i>Penalties.</i>	
1. <i>Bill of Attainder</i>	(46)
2. <i>Ex post facto Law</i>	(46)
3. <i>Attainder of Treason</i>	(73)
VII. <i>Foreign Slave Trade</i>	(44), (81)
VIII. <i>Repudiation.</i>	
1. <i>Forbidden.</i>	
(a) <i>Land-claims</i>	(79)
(b) <i>Contracts</i>	(82)
(c) <i>Public Debt</i>	(101)
2. <i>Enjoined</i>	(101)
IX. <i>Freedom.</i>	
1. <i>Religious</i>	(86)
2. <i>Civil</i>	(86)

CHAPTER XIV.

LESSON XL. — PROHIBITIONS ON THE UNITED STATES.

THE Constitution says, "The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."

I. Habeas Corpus.

The writ of *habeas corpus* is a writ of relief. A person may be wrongfully imprisoned before he is tried on the crime with which he is charged. He may be innocent or guilty; but, in either case, it may happen that he is restrained without the proper forms of law, and without sufficient legal authority.

This is a kind of intermediate writ or proceeding, under which the lawfulness of his imprisonment may be tested, between the moment of the prisoner's arrest and the time of final trial. Proceedings under this writ are not for the purpose of determining upon the guilt or innocence of the accused, but they are for the purpose of settling whether he is properly or improperly held for trial.

Persons are sometimes unlawfully restrained of their liberty, though charged with no crime whatever; as, improperly holding a child in custody, or locking a person in a room.

The privilege of this writ is the birthright of every American citizen. It is a kind of writ of inquiry; and it

is the duty of every court of competent jurisdiction to issue it, on proper application. The only exceptions to this statement are those specified in the foregoing clause of the Constitution.

If the court, on inquiry, decides that the prisoner is properly restrained, he is remanded to imprisonment; but if the prisoner is improperly restrained, the court sets him at liberty.

Rebellion here means open, active hostility, and defiant opposition to the government. It is an uprising of a considerable portion of the citizens of a country against its authority. In cases of re-^{1. Rebellion (45).}bellion or invasion, it may be necessary to temporarily suspend the privilege of this writ. In such an emergency oftentimes the government knows not whom to trust. There may be well-known leaders of organized opposition, whose every act may be so veiled in secrecy as to defy detection. Clear and tangible proof of their guilt, perhaps, cannot be obtained, yet they are as well known to be secretly and earnestly opposed to the war measures of the government as though their hostility were of a more open and public character. If, on the arrest of such public enemies, they could avail themselves of the writ of *habeas corpus*, it might defeat the very ends of justice, and render the government unable to protect itself.

The power of suspension of the privilege of this writ was vested by Congress in the President of the United States during the civil war from 1861 to 1865.

Invasion, as used in the Constitution, means the entry of a hostile force of a foreign nation into our territory. Under such a condition of things, the sus-^{2. Invasion (45).}pension of the privilege of this writ may be as necessary to the welfare of the government as in cases of rebellion.

The Constitution says, "No tax or duty shall be laid on

II. Export articles exported from any State."

Duties (48). The intention of this prohibition is to prevent taxing the interests of any State to its detriment, and giving undue advantages to others. The productions of some of the States are very different from those of others; and, were export duties allowed to be enforced, the burden of taxation would be as unequal as the exports. It would be impossible to so adjust export duties, were they allowed, as to distribute the burdens equally.

QUESTIONS.

1. Recite the forty-fifth paragraph of the Constitution.
2. Give a full explanation of a writ of *habeas corpus*.
3. Under this writ, what is done by the court if the prisoner is improperly restrained?
4. What if properly restrained?
5. What is rebellion?
6. When and why may the privilege of this writ be suspended?
7. Who may suspend the privileges of this writ?
8. What does invasion here signify?
9. What does the Constitution say about export duties?
10. What is the intention of this prohibition?
11. What is said about State productions?

LESSON XLI. — PROHIBITIONS, *Continued.*

The Constitution says, "No preference shall be given, **III. Interstate** by any regulation of commerce or revenue, **Commerce (49).** to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

Although the power to regulate commerce among the States is vested in Congress, yet that power is coupled with these Constitutional prohibitions: no preference shall

be given to the ports of one State over another; nor shall entrance or clearance fees, or the payment of duties, be required in an intermediate State while vessels are passing from one State to another.

A vessel bound to Philadelphia from Liverpool, in passing Boston or New York, cannot be compelled to enter, clear, or pay duties in either of the last two ports named. The duties must be paid in Philadelphia, the port to which the vessel is bound.

The Constitution says, "No money shall be drawn from the treasury but in consequence of appro- *IV. Public*
priations made by law; and a regular *Money.*
statement and account of the receipts and expenditures of all public money shall be published from time to time."

"No appropriation of money to that use (to raise and support armies) shall be for a longer term than two years."

The object of this provision is to secure strict faithfulness in the public expenditures. Neither the Executive, nor the judiciary, nor the heads of departments, nor even members of Congress *1. Drawing (50).*
themselves, can draw a dollar of the public money except by appropriations made by law.

This provision puts a salutary check on the possible profusion and extravagance of the National Legislature. The people have the right to know how, *2. Published*
and for what purposes, their money is ex- *Statement (50).*
pended. The heads of the departments must make an annual exhibit of their transactions respectively.

The fear that the army might possibly become a power too formidable to be consistent with the rights and liberties of the people led to this constitutional lim- *3. For Armies.*
itation of army appropriations. Lest Con- *(37).*
gress may be extravagant in this direction, or the administration acquire too much power over the army, they are

forbidden to make appropriations extending beyond the period of two years.

A Congress lasts for but two years; and, should they be profuse in their appropriations of army money, the people will be likely to correct the error in their election of the succeeding Congress.

The Constitution says, "No title of nobility shall be granted by the United States."

The government instituted in this country at the close of the revolutionary war, and which took definite form in the

V. Nobility (51). Constitution of the United States, was intended to be characterized for republican

simplicity. The theory of our institutions is, all citizens are equal before the law. Orders of nobility are forbidden in accordance with this theory.

The Constitution says, "No bill of attainder or *ex post facto* law shall be passed."

A bill of attainder, which is here forbidden, is a phrase borrowed from England. It is a special act of the legis-

VI. Penalties. lative body, inflicting capital punishment
1. Bill of At- on a person for high crimes, without having
tainder (46). been first convicted before a court of law.

This kind of proceeding was very common in England two or three hundred years ago.

A person against whom such an act was passed was said to be attainted and outlawed. The victim's blood became so corrupted, that he could neither inherit anything from his ancestry, nor transmit by hereditary descent to his heirs. All his property, real and personal, was forfeited to the crown.

An *ex post facto* law is one that is retroactive, and which
2. Ex post facto makes an act criminal which was not crim-
Law (46). inal when committed; or it increases the severity of the punishment which attached to the crime when

it was committed. Both the United States and the several States are forbidden by the Constitution to pass such a law.

The Constitution says, "No attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person at-
3. Attainder of Treason (73).
 tainted."

Treason is defined by the Constitution; but its punishment, by Congress. But this clause of the Constitution defines what penalties shall not attach to this crime. By the laws of England, treason was punishable by death in many horrid forms; but the penalty was not limited to the death of the victim. By fiction of law, his blood became so corrupted that all powers of transmission of property to his kindred were destroyed. But our Constitution forbids the punishment of the innocent for the crimes of the guilty.

In affirmance of this clause of the Constitution, Congress has passed laws strictly limiting the punishment to the party convicted, so that in no legal sense can it reach his posterity.

QUESTIONS.

12. What does the forty-ninth paragraph of the Constitution say?
13. What is said concerning the payment of duties at intermediate ports?
14. What restrictions does the Constitution impose in regard to the disbursement of public money?
15. What is the object of this provision?
16. What is said in regard to published statements?
17. By whom are the statements published?
18. What is said in relation to the appropriations by Congress for armies?

19. Why is the appropriation of money limited to a term of two years?
20. What does the Constitution say in relation to titles of nobility?
21. What is the theory of our government concerning titles of nobility?
22. What is said concerning bills of attainder and *ex post facto* laws?
23. What are they?
24. What was the consequence of a bill of attainder in England?
25. What does the Constitution say in regard to attainder of treason?
26. Who declares the punishment for treason?

LESSON XLII. — PROHIBITIONS, *Continued.*

As slavery and the slave trade are entirely abolished, the clauses of the original Constitution relating to the slave trade have long since become obsolete.

**VII. Foreign
Slave Trade
(44), (81).**

They are inserted here merely as matter of history, and not as of present binding obligation. The following are the only clauses that refer to this subject: "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

There is another clause in Article V. of the Constitution which prohibits any amendment to the foregoing clause prior to the year one thousand eight hundred and eight. The student will find it in the eighty-first paragraph. After prescribing the manner in which the Constitution may be amended, it contains the following restriction, which refers to the clause just given in full.

“Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article.”

The word “persons” in the first foregoing quotation from the Constitution is but another word for “slaves.” At the time of the adoption of the Constitution, slaves were held by authority of law in every State excepting Massachusetts; and the slave trade, that is, importing negroes from Africa, was sanctioned by all, or nearly all, the nations of Christendom.

But towards the close of the eighteenth century the slave trade began to excite a spirit of disapprobation; and the conviction fastened itself on the consciences of men, that this traffic in human beings was repugnant to the principles of Christian obligation. Many of the great and good men who formed the Constitution of the United States shared in this conviction.

Hence the foundation was laid in our Constitution, in the clause just given, by which the legality of the African slave trade was to end in this country with the dawn of the year 1808.

By Act of March 2, 1807, Congress prohibited, under severe penalties, the importation of slaves into the United States from and after Jan. 1, 1808. In 1818 another act was passed, making the penalties more severe; and in 1820 Congress defined the slave trade to be piracy, and attached to it the penalty of death.

On the 18th of December, 1865, William H. Seward, secretary of state, officially announced to the country that the Thirteenth Article of Amendment had been ratified by the Legislatures of three fourths of the several States, and had become, to all intents and purposes, a part of the Constitution of the United States.

By that article, slavery was abolished throughout the United States, and in all places subject to their jurisdiction.

QUESTIONS.

27. What is said about slavery and the slave trade?
28. In what year was the slave trade abolished by Congress, and what penalty was attached to it by Congress in the year 1820?
29. When was slavery abolished in the United States and in places subject to their jurisdiction?

LESSON XLIII. — PROHIBITIONS, *Continued.*

The following is found in Paragraph (79) of the Constitution: "Nothing in this Constitution shall be so construed

VIII. Repudiation. as to prejudice any claims of the United States or of any particular State."

1. Forbidden.

(a) **Land Claims**

(79).

This is a part of a clause in which the authority is given to Congress to dispose of territory belonging to the United States. This provision relates to conflicting claims and unsettled titles to some parts of the Western Territory. The intention of this clause is to give assurance that the adoption of the Constitution of the United States shall in no way affect the validity of any claims to these lands, but that the rights of parties interested shall be the same as they were under the Confederation.

On the matter of repudiating contracts existing under the Confederation, the language of the Constitution is thus:

(b) **Contracts** "All debts contracted, and engagements entered into, before the adoption of this

(79).

Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation."

This clause is intended to give assurance to the creditors of the proposed new government that all just claims against the Confederation will be recognized and liquidated under the Constitution.

This is in accordance with well-settled law, binding on all nations, notwithstanding any changes in their forms of government.

The Constitution says, "The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned." (c) *Public Debt* (101.)

The Constitution says, "Neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave." 2. *Enjoined* (101.)

The repudiation here enjoined, if such it is, was made a part of the Fourteenth Article of Amendment so as to prevent all future Congresses and State Legislatures from making any attempt to legalize any State or individual contracts, express or implied, assumed in the interest of the Confederate cause.

Hundreds of millions of obligations of this character were contracted by the Southern Confederacy, and by several of the States that espoused the cause of opposition to the United States.

This clause operates as a severe pecuniary penalty upon those who had such faith in the success of the insurrection as to induce them to invest their means in Confederate bills and bonds. It is also intended to operate as a premium for allegiance to the government and authority of the United States. It secures this end by exonerating debtors from all debts and obligations incurred in aid of the lost cause.

No judicial tribunal, State or National, has power to render judgment in favor of parties seeking to enforce such demands.

The Constitution says, "No religious test shall ever be required as a qualification to any office or public trust under the United States."
IX. Religious and Civil Freedom (86). "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

In Paragraph (86) of the Constitution, Congress is expressly forbidden to pass any law abridging the freedom of speech or of the press.

But this does not exonerate from personal and pecuniary responsibility any person who may speak slanderous words, or publish libelous matter against the fair fame of another. The law holds every man strictly amenable for the abuse of this freedom of speech and of the press. If men will slander and libel others, the law says they must pay for it.

In the same paragraph of the Constitution, Congress is forbidden to pass any law denying the right of the people peaceably to assemble and to petition the government for a redress of grievances. This is what is called the right of petition.

The Constitution says, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

This paragraph of the Constitution refers to an organization of the militia of the States. Fears have been expressed that the liberty of the people might be destroyed by the perverted power of a formidable standing army. The militia, that might be called out at any time on a month's notice, would outnumber, twenty to one, any standing army in time of peace that will ever be tolerated in the United States.

QUESTIONS.

30. What are the clauses in the Constitution in reference to repudiation ?
31. What is the language of the Constitution enjoining repudiation ?
32. Why is this repudiation enjoined ?
33. What does the Constitution say about religious freedom ?
34. What does the Constitution say about freedom of speech and of the press, and of the right of petition ?
35. What does it say about the right to bear arms ?
36. To what does this refer ?
37. What is the utility of the militia system ?

BLACKBOARD EXERCISE.

RIGHTS OF STATES.

I. <i>Representation.</i>	
1. <i>House</i>	(5)
2. <i>Senate</i>	(8)
II. <i>Privileges of Citizenship</i>	(75), (98)
III. <i>State Amity</i>	(74)
IV. <i>New States.</i>	
1. <i>By Dismemberment</i>	(78)
2. <i>By Function</i>	(78)
V. <i>Election</i>	(15)
VI. <i>Militia.</i>	
1. <i>Militia Officers</i>	(41)
2. <i>Training Militia</i>	(41)
VII. <i>Federal Protection.</i>	
1. <i>Government</i>	(80)
2. <i>Invasion</i>	(80)
3. <i>Domestic Violence</i>	(80)
VIII. <i>Fugitives.</i>	
1. <i>From Justice</i>	(76)
2. <i>From Service</i>	(77)
IX. <i>Reservations.</i>	
1. <i>Rights enumerated</i>	(94)
2. <i>Powers not delegated.</i>	(95)

CHAPTER XV.

LESSON XLIV. — RIGHTS OF STATES.

THE Constitution says, "The House of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative." *I. Representation.*

This quotation from the Constitution is found in Paragraph (5). It is not here declared that there shall be one representative for every thirty thousand, but that the proportion shall not exceed that. The population of the United States has increased about twenty fold since the adoption of the Constitution. It now numbers about one hundred millions. *1. House (5).*

Were the proportion of representation in the House at the present time one for every thirty thousand, the number of representatives would be more than three thousand, — a body far too numerous for deliberative legislation.

The ratio of representation adopted after the census of 1910 is one member for 211,877 persons (see p. 66). During 1913-1923, the House will consist of four hundred and thirty-five members, besides those for any new States admitted after 1913. As the population increases from decade to decade, the proportion of representation must be correspondingly reduced.

It has often happened that some of the States have not had a population of sufficient number to give them the right to one representative, according to the principle of apportionment adopted by Congress; but by the provisions of the Constitution each State has always been allowed at least one representative.

The Constitution says, "The Senate of the United States shall be composed of two senators from each State."

2. *Senate* (8).

This is an unamendable clause of the Constitution. By reference to Paragraph (81), it will be seen that no State can, without its consent, be deprived of its equal suffrage in the Senate.

The number of representatives from any State depends on the population of that State. The larger States, therefore, have a greater number than the smaller States. The smaller States vigorously opposed this in the convention that formed the Constitution. It was giving the larger States a great advantage in the House. But the opposition was withdrawn on the larger States consenting to equality of suffrage in the Senate, and that this provision should be unalterable. This is a right of States not to be voted away by majorities, however large.

QUESTIONS.

1. What does the Constitution say about representation in the House?
2. What has been the increase of the population of the United States?
3. What would be the number of representatives in Congress if we were now to have one for every thirty thousand inhabitants?
4. Of how many members does the House of Representatives consist under its present organization?
5. What is the present proportion of representation?
6. How is the Senate composed?
7. Why may not this be changed?
8. What compromise was made between the larger and smaller States?

LESSON XLV.—RIGHTS OF STATES, *Continued.*

The Constitution says, “The citizens in each State shall be entitled to all the privileges and immunities of citizens of the several States.”

*II. Privileges of
Citizenship
(75) (98).*

“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.”

The purpose of these clauses is to create a general national citizenship. Perhaps it does not so properly come under the rights of States as the rights of citizens derived from the States.

A person, being a citizen in one State of the Union, may remove to any other without prejudice to his social, pecuniary, or political rights in his new home.

He may purchase, hold, convey, and inherit property, and enjoy all other rights arising from citizenship, the same as though he were born or naturalized in the State to which he migrates.

The Constitution says, “Full faith and credit shall be given in each State to the acts, records, and judicial proceedings of every other State.”

*III. State
Amity (74).*

By this provision, the following rights are given to States and individuals:—

1st, A State has the right to demand of another State that its acts, records, and judicial proceedings shall be respected, and that full faith and credit shall be given to them.

2d, Individuals may demand the same, when that demand is necessary to the vindication of their rights.

3d, States on whom such demands are properly made are under obligations to heed and respect them.

A judgment rendered by a court in the State of Massachusetts, for instance, would be conclusive in the State of New York, provided the courts of Massachusetts would hold it conclusive.

The Constitution says, "No new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned."

The first clause above — "No new State shall be formed or erected within the jurisdiction of any other State" — was inserted by the Constitutional Convention, to quiet the fears of the larger States that their territories might be dismembered for the purpose of increasing the number of States.

Notwithstanding this guaranty to States against dismemberment, the State of Virginia was dismembered in 1863; and West Virginia, a part of the original State, was admitted into the Union as an independent State. But that was a revolutionary measure, growing out of the civil war, in which Virginia voted to secede from the Union, and enlisted in the cause of the Southern Confederacy (see TOWNSEND'S *Analysis of Civil Government*).

No new State has ever been formed by the junction of two or more States. The second provision above — "nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned" — was inserted to quiet the fears of the smaller States that a junction of States might take place without their consent. and thus their sovereignty be destroyed.

QUESTIONS.

9. What does the Constitution say about privileges of citizenship?
10. What is the purpose of these clauses?
11. What is the consequence of this national citizenship?
12. What is said of State amity?
13. What authority does the provision give to States and individuals?
14. What are the prohibitions in regard to new States?
15. What is the object of the first clause?
16. What is said about West Virginia?
17. What is the object of the second provision?

 LESSON XLVI. — RIGHTS OF STATES, *Continued.*

The Constitution says, "The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators." *V. Election (15).*

This clause gives the regulation of the election of senators and representatives primarily to the legislative authority of the several States. Should they fail to exercise it, however, or exercise it improperly, the interests of the country would justify the interposition of Congress.

By the forty-first paragraph of the Constitution, Congress has power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." *VI. Militia.*

As the National Government is to depend on the several States for the militia, it seems proper that the officers who are to train and discipline them should be appointed by the States. This arm or power of national security is in some sense a local police force, a means of State defense, for the proper organization and discipline of which the several States are responsible to the national authority.

But, in order that there may be uniformity of organization and discipline, it is left with Congress to prescribe the mode. In case of an invasion by a foreign power, or a widespread rebellion, the militia of States distant from each other may be placed side by side in the same army. Hence the necessity of uniformity of discipline, and of its being under the direction of a single power, instead of being distributed among the several States.

The Constitution says, "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence."

The United States is one great political family, and each State is a member of that family; and each member has the right of protection from invasion without, or insurrection within.

This is one of those State rights that give assurance of the stability and solidity of the State governments, as well as the perpetuity of the Federal Union.

The States have the right of Federal protection against foreign invasion. They cannot declare war, nor even engage in it as States, unless the danger is so imminent as not to admit of delay.

For the surrender of this right, it is but reasonable that the National Government should pledge its power to defend them.

Perhaps there is more danger of insurrectionary outbreaks under a republican form of government than under any other. Enjoying, as the people do, a *3. Domestic Violence (80)* greater degree of freedom under this than under other forms of government, that freedom is correspondingly more liable to be abused.

Our history has in several instances demonstrated this liability. The national aid has been invoked, and Federal relief has been afforded to the States, in several cases since the formation of our government.

QUESTIONS.

18. What does the Constitution say about elections for senators and representatives?
19. What is the order in which this power is conferred?
20. What rights are reserved to the several States in regard to the militia?
21. Why is this reservation proper?
22. Who prescribes the mode of discipline, and why?
23. What does the Constitution say in relation to Federal protection?
24. Of what does this give assurance?
25. How are the States restricted as to war?
26. What pledge from the National Government have the States for the surrender of this right?
27. What is said about danger of insurrection under a republican form of government?
28. What has the history of the United States demonstrated as to this danger?

LESSON XLVII. — RIGHTS OF STATES, *Continued.*

The Constitution says, "A person charged in any State with treason, felony, or other crime, who shall flee from *VIII. Fugitives.* justice, and be found in another State, *1. From Justice* shall, on demand of the executive authority *(76).* of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

Provisions have been made by Congress to enforce the foregoing paragraph. An act was passed Feb. 12, 1793, by which,

1st, The Executive of the State in which the crime is committed must make demand for the return of the criminal on the Executive of the State to which the criminal has fled.

2d, The demand must be accompanied by a copy of the indictment against the criminal; or,

3d, By an affidavit made before a magistrate charging the person demanded with having committed the crime, and having fled from justice.

4th, The copy of the indictment, or the affidavit, must be certified by the governor or chief magistrate making the demand, to be authentic.

5th, When this is done, it is the duty of the Executive of the State to which the person has fled to cause the accused to be arrested and secured.

6th, It is the duty of the Executive causing the arrest to give notice thereof to the Executive making the demand, or to his agent.

7th, Following these proceedings, the person charged with the crime is delivered over for trial to the State authorities from which he fled.

The Constitution says, "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law *2. From Service* or regulation therein, be discharged from *(77)* such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

This paragraph refers to slaves exclusively. Acts of Congress have been passed and amended to enforce this provision. But they were all repealed in 1864; the next year after which, slavery was abolished in this country. This provision of the Constitution, therefore, is now superseded.

The Constitution says, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." *IX. Reservations.*

In several paragraphs of the Constitution *1. Rights enumerated (94)* certain rights are enumerated as reserved to the States; and, but for the foregoing provision, it might possibly be inferred that all rights were surrendered by the States to the General Government except those included in such reservations. This amendment was adopted for the purpose of guarding against such possible construction. All such rights are reserved to the States as are not expressly, or by necessary implication, taken away.

The Constitution says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States *2. Powers not respectively, or to the people.*" *delegated (95).*

Cases of doubtful authority may arise between a State and the United States. This amendment to the Constitution furnishes a rule of interpretation in such cases.

The powers of the National Government are limited, being conferred by the people of the several States, and enumerated in the Constitution as far as practicable. Of

course, all the means necessary to carry into execution the spirit of the Constitution are not, and could not be, expressly named.

For instance: the power to regulate commerce is expressly given to Congress; and, while some of the means to carry this power into effect are enumerated, they are not all specified. Nor is this necessary, for a power conferred always implies the right to adopt the requisite means to make that power effective.

QUESTIONS.

29. What does the Constitution say about fugitives from justice?
30. What steps must be taken to secure the return of fugitives from justice?
31. What is said about the return of fugitives from service?
32. What does the Constitution say of the enumeration of certain rights therein?
33. What is the object of this provision?
34. What rights are reserved to the States?
35. What is said in the Constitution of powers not delegated?
36. What rule does this furnish?
37. What is said of the national powers?
38. What is said about powers, and means for carrying them into execution, being expressed?
39. What instance is given as an illustration?
40. What does a power conferred imply?

BLACKBOARD EXERCISE.

STATE SUBORDINATION.

- I. *State Obligations.*
 - 1. *United States Constitution* (85)
 - 2. *Amendments* (81)
- II. *Supremacy of United States Authority* (83)
- III. *Official Oath.*
 - 1. *State Legislators* (84)
 - 2. *State Executives* (84)
 - 3. *State Judicial Officers* (84)

CHAPTER XVI.

LESSON XLVIII.—STATE SUBORDINATION.

THE Constitution says, "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

I. State Obligations.

1. United States Constitution (85). The origin of the obligations of the States to the General Government is founded in their assent to the Constitution of the United States. Before ratifying the Constitution, the States were at liberty to make their choice: they could come into the Union or stay out. Should they refuse their assent to the terms of national association, they would each be an independent political division, having all the attributes and prerogatives of sovereign States. But, having accepted the terms of union, they became subordinate to the national authority.

In the eighty-first paragraph the Constitution provides for its own amendment. When an amendment is regularly

2. Amendments (81).

made, being ratified by the Conventions or Legislatures of three fourths of the several States, it must be obeyed by all the States, as, to all intents and purposes, a part of the Constitution. It is equally binding on the States that do not ratify it and on those who do give it their sanction; for, by coming into the Union, they solemnly agreed to the terms on which this Great Charter might be amended.

The Constitution says, "This Constitution, and the laws

of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”

The above is a solemn declaration of the binding and supreme authority over all State authority, —

1. Of the Constitution of the United States.
2. Of all laws made in pursuance of it.
3. Of all treaties made under it.
4. Furthermore, in case of collision by authority between the United States, acting constitutionally, and any particular State, the former is supreme. The judges of every State are bound to so interpret the law. Were State authority supreme, the National Government would be characterized by weakness and imbecility.

The Constitution says, “The senators and representatives before mentioned, and the members of the several State Legislatures, and all executives and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution.”

We see by this passage that not only senators and representatives in Congress, and all executive and judicial officers of the United States, must be bound by oath or affirmation to support the Constitution, but that all members of the several *State* Legislatures, and all State executive and judicial officers, are required to assume the same obligation.

This is but a reasonable requirement, because the members and officers of the State governments have an essential agency in giving effect to the Federal Constitution.

*II. Supremacy
of United States
Authority (83).*

*III. Official
Oath (84).*

The election of the President of the United States and senators in Congress will depend in all cases on the Legislatures of the several States.

In many cases the election of the House of Representatives may be effected by their agency.

The judges of the State courts will frequently be called upon to decide upon the Constitution and laws and treaties of the United States, and upon rights and claims growing out of them. Decisions ought to be uniform, as far as possible ; and uniformity of obligation will greatly tend to such a result.

The executive authority of the several States may be often called upon to exert powers or allow rights given by the Constitution, as in filling vacancies in the Senate during the recess of the Legislature, in issuing writs of election to fill vacancies in the House of Representatives, in appointing officers of the militia, and in the surrender of fugitives from justice.

QUESTIONS.

1. Of how many States was assent to the Constitution required, to form the Union ?
2. What is the origin of the State obligation to the Federal Union ?
3. Had they not ratified the Constitution, what would have been the condition of the States ?
4. What was the result of their acceptance ?
5. What provision does the Constitution make for its own amendment ?
6. On whom are the amendments binding ?
7. What passage in the Constitution establishes the supremacy of the United States authority ?
8. What would be the result if State authority were supreme ?
9. What does the Constitution say about official oaths ?
10. Why is the requirement reasonable as to State officers ?
11. What depends on the Legislatures of the several States ?
12. What may be the duties of the State judges ?
13. What duties belong to State executives ?

BLACKBOARD EXERCISE.

STATE PROHIBITIONS.

I. <i>State Relations</i>	. . . . .	(52) (54)
II. <i>Commercial.</i>		
1. <i>Coining Money</i>	. . . . .	(52)
2. <i>Bills of Credit</i>	. . . . .	(52)
3. <i>Tender</i>	. . . . .	(52)
4. <i>Contract Obligations</i>	. . . . .	(52)
III. <i>War</i>	. . . . .	(52) (54)
IV. <i>Penalties.</i>		
1. <i>Bill of Attainder</i>	. . . . .	(52)
2. <i>Ex post facto Law</i>	. . . . .	(52)
V. <i>Nobility</i>	. . . . .	(52)
VI. <i>Duties.</i>		
1. <i>Imports and Exports</i>	. . . . .	(53)
2. <i>Tonnage</i>	. . . . .	(54)

CHAPTER XVII.

LESSON XLIX. — STATE PROHIBITIONS.

THE Constitution says, “No State shall enter into any treaty, alliance, or confederation.”

I. State Relations (52) (54). By the fifty-fourth paragraph of the Constitution, States are forbidden to enter into any agreement or compact with another State or with any foreign power.

The Constitution intends to confer the whole treaty-making power upon the General Government. It would not be safe to allow the States even to treat with each other. Were this permitted, two or more States might enter into a compact, not only quite adverse to the interests of neighboring States, but also to the interests of the Federal Union.

Were the States at liberty to treat with foreign powers or neighboring States, they might enter into such arrangements as would interfere with those made by the General Government at home and abroad.

If the States were permitted to enter into treaties with foreign powers, the authority of the General Government on the same matter would be at an end.

Foreign powers might secure an advantage over all the States by securing the favor of one State.

By the fifty-second paragraph of the Constitution, States are prohibited from exercising any of the following commercial powers:—

II. Commercial.

1. To coin money.
2. To emit bills of credit.
3. To make anything but gold and silver coin a tender in payment of debts.
4. To pass any law impairing the obligation of contracts.

The power to coin money is confided to the General Government. Were the States invested with it, the effect would be to multiply expensive mints, and diversify the forms and weights of the circulating coins. This would destroy all hope of uniformity of currency, and would seriously cripple and embarrass the interests of commerce.

1. Coining Money (52).

The bills of credit as here referred to, and which States are forbidden to emit, are engagements to pay money. At the close of the revolutionary war, and for some years afterwards, the whole country was flooded with a nearly worthless paper currency. It was issued under the direction of Congress, but it was expected that each State would redeem its proper proportion; but they did not do this, and it became utterly worthless as a medium of exchange. It is known in history as the "Continental currency." It amounted in the aggregate to over three hundred and fifty millions.

2. Bills of Credit (52).

The States themselves had also, on their own account, largely issued similar bills of credit. At last it was hardly worth a penny on a dollar.

This was the experience that led the authors of the Constitution to insert this clause.

The States are also forbidden to pass any laws making anything but gold and silver coin a tender in payment of debts. This prohibition has the same general object in view as the preceding clauses. It is intended to give uniformity and stability to the currency

3. Tender (52).

of the country, and to establish confidence in commercial transactions.

Though the States cannot make anything but gold and silver a legal tender, this prohibition does not apply to the General Government. A large part of the present paper currency is made legal tender by a law of Congress, passed early in 1862. But this is a national medium of exchange, and the law authorizing its issue has been declared by the Supreme Court of the United States to be constitutional.

QUESTIONS.

1. On whom does the Constitution intend to confer the treaty-making power?
2. Why would it not be safe to allow the States to treat with each other?
3. Why not with foreign powers?
4. What commercial powers are the States prohibited from exercising?
5. What would be the effect if the States were allowed to coin money?
6. What are bills of credit?
7. What is said about paper money at the close of the revolutionary war?
8. What was expected of the States with respect to this paper currency?
9. What was the result of their not doing this?
10. What was the amount of Continental currency?
11. How far did it finally depreciate in value?
12. What are the restrictions on the States about money as a tender in payment of debts?
13. What is the object of this provision?
14. What is said about our present paper currency?
15. What decision has the Supreme Court given on this?

LESSON L. — STATE PROHIBITIONS, *Continued.*

By the fifty-second paragraph, States are forbidden to grant letters of marque and reprisal ; and by the fifty-fourth they are forbidden to keep troops or ships of war in time of peace without the consent of Congress, or engage in war unless actually invaded or in such imminent danger as will not admit of delay. *III. War (52) (54)*

These citations from the Constitution embrace all the restrictions imposed on the States in reference to making war. The power of making war and of making treaties of peace belongs exclusively to the General Government.

A State may be so situated that it may become indispensable to possess military forces to resist an expected invasion or insurrection. The danger may be too imminent to admit of delay ; and under such circumstances a State would have a right to raise troops for its own safety, even without the consent of Congress.

By the fifty-second paragraph of the Constitution, States are forbidden to pass any bill of attainder or *ex post facto* law. These are explained in the chapter "Prohibitions on the United States." *IV. Penalties (52).*

Bills of attainder and *ex post facto* laws are contrary to the first principles of the social compact and of every principle of sound legislation. Congress is forbidden to pass them, as we have seen ; and for the same, if not for stronger reasons, the prohibition is extended to the States.

By the same paragraph, the States are forbidden to grant any title of nobility. We have seen in another place that the United States are under the same prohibition. *V. Nobility (52).*

Besides the royal family in England, there are five orders of nobility, — dukes, marquises, earls, viscounts, and barons.

These are all included under the general term "lords" or "peers." These titles descend to the heirs.

It would be absurd to provide against the exercise of this power by the General Government, and yet leave the States at liberty to exercise it.

The Constitution says, "No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States."

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of commerce to the Federal councils. Imposts and duties were explained in treating of the "Powers of Congress."

Inspection laws are not, strictly speaking, regulations of commerce. Their object is to improve the quality of articles produced by the labor of the country, and to fit them for exportation or for domestic use. These laws act upon the subject before it becomes an article of commerce.

States are also forbidden to lay any duty of tonnage without the consent of Congress.

Tonnage duty is a tax or duty laid on ships or vessels in proportion to their cubical contents expressed in tons. A ton, expressed by measure, is forty-two cubic feet.

In reference to the subject of duties generally, it was the intention of the authors of the Constitution to place it entirely under the supervision and control of Congress.

QUESTIONS.

16. What are the restrictions on the States in the fifty-second, fifty-third, and fifty-fourth paragraphs?
17. To whom does the war and treaty making power belong?
18. When may a State raise troops without the consent of Congress?
19. What is said of bills of attainder and *ex post facto* laws?
20. What is said about titles of nobility?
21. How many and what are the titles of nobility in England?
22. By what other general names are they known?
23. What are the restrictions on the States about imports and exports?
24. What is the object of inspection laws?
25. What is said about the duty of tonnage?
26. What is a ton in measure?

BLACKBOARD EXERCISE.

PERSONAL RIGHTS

- I. *Domicile.*
 1. *In Peace* (88)
 2. *In War* (88)
- II. *Searches and Seizures* (89)
- III. *Judicial.*
 1. *Indictment* (90)
 2. *Second Trial* (90)
 3. *Life, Liberty, and Property* (90)
 4. *Private Property* (90)
- IV. *Criminal Actions.*
 1. *Accusation* (91)
 2. *Jury Trial* (91)
 3. *Witnesses* (90) (91)
 4. *Counsel* (91)
 5. *Bail* (93)
 6. *Fines* (93)
 7. *Punishments* (93)
- V. *Civil Actions.*
 1. *Jury Trial* (92)
 2. *Second Trial* (92)
- VI. *Treason.*
 1. *What is Treason* (72)
 2. *Conviction for Treason* (72)

CHAPTER XVIII.

LESSON LI.—PERSONAL RIGHTS.

THE Constitution says, “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.”

I. Domicile.

The place most sacred to every citizen is that one which he calls his home. The enjoyment of it, uninterrupted, is among the most sacred of personal rights.

Arbitrary rulers, even in time of peace, are prone to trespass on this right, and in the very mode here forbidden.

1. In Peace (88).

A man's house is his castle, and in every land of law and order it is the owner's right that it should be protected.

But the necessities of war may sometimes require the sacrifice of private property and individual rights for the public good. In such cases, under our Constitution, just compensation must be

2. In War (88).

made for the sacrifice of private property. In time of war it may become a public necessity not only to quarter troops in private houses, but to convert churches, court-houses, and other public buildings, into barracks and hospitals.

But invasion of private property must, under our government, be strictly according to law. This would not be regarded as an encroachment, however, by any patriotic

or reasonable man, but rather as cause for gratitude to his country.

The Constitution says, "The right of the people to be secure in their persons, houses, papers, and effects, against *II. Searches and Seizures (89)* unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

This provision requires no explanation. It is an affirmation of a well-known principle of common law, recognized for ages. But it had been so frequently and so shamefully violated by despotic rulers for centuries, that our fathers thought it prudent to incorporate it among the earlier amendments to the Constitution.

QUESTIONS.

1. What does the Constitution say about quartering soldiers in private houses?
2. What is said about the personal rights of a citizen in reference to his home, and what about arbitrary rulers?
3. What do the necessities of war sometimes require for the public good?
4. What is said about compensation for the sacrifice of private property?
5. What is said in relation to unreasonable searches and seizures?
6. What does the Constitution say are the conditions necessary to the issue of warrants?
7. What is said of this provision?

LESSON LII.—PERSONAL RIGHTS, *Continued.*

The Constitution says, "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, *III. Judicial.* except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

A capital crime is one that subjects the offender to the penalty of death.

1. Indictment

An infamous crime is one that exposes *(90).* the criminal to the abhorrence and detestation of mankind, and to ignominious punishment more or less severe.

An indictment is a written accusation or a formal charge made against a person for the commission of a crime, and is made by a grand jury on oath.

A grand jury generally consists of twenty-three men. It requires a majority to find an indictment. They sit under the direction of court with closed doors, and are sworn to secrecy in regard to their proceedings. The prosecuting attorney, being the law officer for the State, draws up the indictment according to the forms of law. The foreman of the grand jury indorses on it the words, "A true bill," and signs his name under the indorsement. This must be done before the accused can be put on his trial.

Crimes committed in the army or navy, or in the militia, when in actual service in time of war or public danger,

are tried by court-martial or by military commission, without going through with the formalities of an indictment.

The Constitution says, "Nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb." This refers to second trials for the same crime.

By the authority of this clause, no person having been once tried for a crime, whether found guilty or not guilty, if the jury agree on a verdict at all, can be put on his trial a second time for the same offense. But this statement must be taken with the qualification that the accused does not himself apply for a new trial.

The Constitution says, "Nor be deprived of life, liberty, or property, without due process of law." The first object of human government is protection of the citizen. This clause is inserted for the purpose of giving assurance that life, liberty, and property shall be held sacred in the eye of the law, and that the citizen shall not be deprived of either except through all the forms and substance of the regular administration of justice.

On the other hand, the public good, which is paramount to private interest, often requires the appropriation of private property for the ends of government, or for the greater good of the greater number. Where the public interests require it, private property may be taken by rendering a just compensation to the owner of the same.

What is just compensation in such cases is to be ascertained by such process of investigation as shall be fixed by law. It may be necessary to project a railroad, a military road, or to construct a canal; or it may become necessary to appropriate private property for the support of an army.

This may be done by authority of law, but not without just compensation to the owner of the property.

QUESTIONS.

8. Will you recite the Fifth Article of Amendment to the Constitution?
9. What is a capital, and what an infamous, crime?
10. What is an indictment?
11. What is a grand jury?
12. What is said about their proceedings?
13. What is said about the trial of crimes committed in the army, navy, and militia?
14. What is said about second trials?
15. What is the first object of government?
16. Why is this clause in regard to life, liberty, etc., inserted in the Constitution?
17. What does the public good often require?
18. What is said about compensation for private property?

LESSON LIII.—PERSONAL RIGHTS, *Continued.*

The Constitution says, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

IV. Criminal Actions.

1. Accusation (91).

We have here an outline of the rights of a party on trial for a criminal offense. In the first place, he is to be informed of the nature and cause of the accusation

against him. This appears in the indictment, which is a written accusation made by the grand jury, on oath, at the suit of the government.

The indictment must charge the time, place, and nature and circumstances of the offense with clearness and certainty ; giving the accused full and definite notice of the charge, so that he may make his defense with all reasonable knowledge, and to the best of his ability.

The trial is by jury. This is a *petit* jury, consisting of twelve good and lawful men, against whom, and each of whom, no valid and legal objection can be raised. This jury must be impartial ; that is, it must be constituted of persons who have not already made up their minds on the guilt or innocence of the party accused.

The jury shall be selected from the State and district in which the crime shall have been committed ; and the district shall have been previously ascertained, that is, determined by law. The selection of the jury from the State and district in which the crime is committed is supposed to secure fairness and impartiality on the trial.

By our Constitution, a man cannot be compelled to testify against himself ; and this is in affirmance of a well-

3. Witnesses settled principle of common law.

(90) (91). It is well known that in some countries criminals are not only compelled to give evidence against themselves, but are subjected to the rack or torture in order to procure a confession of guilt, presuming that innocence would vindicate itself by a stout resistance, or that guilt would make open confession.

The accused has the right to compulsory process for obtaining witnesses in his favor. This is to secure impartiality of trial, and to give a fair opportunity of defense. This shall be done, if need be, at the expense of the gov-

ernment itself, though carrying on the prosecution against him.

Not far back in English history, the prisoner at the bar was denied the privilege of calling witnesses to testify in his favor; but our Constitution makes wise provision against the possibility of such gross injustice.

The accused shall also have the assistance of counsel for his defense. This means that he shall have a lawyer to assist him at the bar, to guard his rights, to defend him, to see that he has a fair trial, and to see also that no injustice is done him. *4. Counsel (91).*

If he is unable to employ counsel of his own selection, it is the duty of the court to appoint one or more for that purpose at the expense of the government: so careful is the law in this country of the rights of every American citizen.

Excessive bail shall not be required. Bail here means a bond of surety in a sum of money signed by some responsible person or persons, promising that the accused shall appear and stand his trial in court when called for, or, if he does not, that the sum of money named in the bond shall be paid. On furnishing such a bond, the person is at liberty to go at large until the day of trial. If no such bond be furnished, the accused will be shut up in jail, that his body may be held securely till the time of trial. *5. Bail (93).*

Except in cases where the accused is charged with crime punishable by death, and a few others, he has a right to be discharged from custody, on giving the bail required by the court.

This bail must not be excessive, but reasonable in amount. But for this humane provision in our Constitution, it might be required in a sum so large that a person of ordinary means would be unable to procure it. Should

a magistrate, under our Constitution, see fit to be thus cruel, the prisoner can obtain relief under the forms of law.

Excessive fines are forbidden. A fine is a pecuniary penalty imposed by a court upon a person for a criminal offense, or transgression of the law.

6. Fines (93).

Nor shall cruel and unusual punishments be inflicted. This needs no comment, except the remark that history shows that despots in the dark ages taxed their fiendish ingenuity to invent punishments the most horrid, cruel, and revolting; and this prohibition is for the purpose of avoiding all possibility of a repetition of such cruelties in this country.

7. Punishments (93).

QUESTIONS.

19. Will you recite the Sixth Article of Amendment?
20. Of what is this an outline?
21. What must the indictment charge?
22. What is a petit jury?
23. What is said about their being impartial?
24. Where is the jury to be selected?
25. What is required of witnesses in some countries?
26. To what has the accused a right?
27. What is the object of this?
28. Of what have prisoners in England been denied?
29. What is said about the assistance of counsel?
30. What is bail, and what is said about it?
31. In what cases may the prisoner give bail?
32. Why should not the bail be excessive?
33. What is said about fines?
34. What is a fine?
35. What is said about punishments?
36. What is the object of this provision of the Constitution?

LESSON LIV. — PERSONAL RIGHTS, *Continued.*

The Constitution says, "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise reëxamined in any court of the United States than according to the rules of the common law."

V. Civil Actions.

Trial by jury has long been considered a sacred right even in civil controversies. In England this right was first recognized in the time of Alfred the Great, who established the proceeding in the ninth century. That noble ruler died in 901.

1. Jury Trial (92).

The above amendment to the Constitution was early adopted to allay the fears of some of its opposers that that instrument substantially abolished the right of jury in civil cases. These fears were grounded in the fact that this right was expressly secured therein in criminal cases.

The language of the amendment applies only to cases in the common-law courts, not to courts of admiralty and maritime jurisdiction, nor to cases of equity, in which the courts determine both the law and the fact.

If the matter in controversy be less than twenty dollars, a jury trial cannot be claimed, being a matter of too little importance to warrant the expense of a jury trial.

When a matter in controversy has once been judicially settled by a competent court, that adjudication is a bar to any further judicial examination or proceedings, except according to the forms and usages of the common law. There must be an end somewhere to human controversy, and that end must be determined by legal principles and usage.

2. Second Trial (92).

The rules of common law here spoken of, under which

matters of fact may be reëxamined, refer to a continuation of the investigation by a successful motion for a new trial, on cause shown, or by writ of error, or by an appeal to another and higher tribunal. The parties have the right to exhaust all legal remedies before the controversy is to be considered as judicially settled ; but these remedies must be pursued according to common-law usage.

QUESTIONS.

37. What is the Seventh Article of Amendment ?
38. How is trial by jury considered ?
39. By whom and when was jury trial established in England ?
40. Why was this amendment to our Constitution adopted ?
41. To what courts does it apply, and to what does it not ?
42. In what cases may jury trial be claimed ?
43. What is said about second trial ?
44. To what do the rules of common law refer ?

LESSON LV. — PERSONAL RIGHTS, *Continued.*

The Constitution says, "Treason against the United States shall consist only in levying war
VI. Treason.
 1. *What is it?* against them, or in adhering to their enemies, giving them aid and comfort."
 (72)

There are but two ways that treason can be committed against the United States, and these are defined with such precision as to leave no room for cavil or doubt. Levying war against the United States, or adhering to their enemies, giving them aid and comfort, is treason.

Very early in our history the Supreme Court of the United States had occasion to define what is to be understood by the phrase "levying war." On that occasion the court said, "However flagitious may be the crime of con-

spiring to subvert by force the government of our country, such conspiracy is not treason."

To conspire to levy war, and actually to levy war, are distinct offenses. The second (levying war) must be brought into open action by the assemblage of men for a purpose treasonable in itself, or the fact of levying war cannot have been committed.

The Constitution says, "No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court." *2. Conviction for Treason (72).*

The Constitution is humane to the accused in requiring the strictest proof for the establishment of his guilt. There must be two witnesses, at least, to the same overt act, unless the prisoner make confession in open court. Confessions out of court, though testified to by any number of witnesses, are not sufficient.

There must, as there should, be a concurrence of two witnesses to the same overt act, that is, *open* act of treason, who are above all reasonable exception.

QUESTIONS.

45. What is treason against the United States?
46. In how many ways can treason be committed?
47. What decision has the Supreme Court given on the subject of "levying war"?
48. What is necessary for a conviction of treason?

BLACKBOARD EXERCISE.

EXECUTIVE.

I. <i>In whom vested</i>	(55)
II. <i>Executive Term</i>	(55)
III. <i>Eligibility.</i>	
1. <i>Citizenship</i>	(59)
2. <i>Age</i>	(59)
3. <i>Residence</i>	(59)
IV. <i>How elected.</i>	
1. <i>Electors.</i>	
(a) <i>Appointment</i>	(56)
(b) <i>Number</i>	(56)
(c) <i>Proceedings.</i>	
1st, <i>Meeting</i>	(57)
2d, <i>Voting</i>	(57)
3d, <i>Making Lists</i>	(57)
4th, <i>Signing and certifying Lists</i>	(57)
5th, <i>Transmitting Lists</i>	(57)
6th, <i>Directing Lists</i>	(57)
(d) <i>In Congress.</i>	
1st, <i>Joint Meeting</i>	(57)
2d, <i>Opening Certificates</i>	(57)
3d, <i>Counting Votes</i>	(57)
2. <i>House of Representatives.</i>	
(a) <i>Quorum</i>	(57)
(b) <i>Eligibility</i>	(57)
(c) <i>Voting</i>	(57)
V. <i>Oath of Office</i>	(62)
VI. <i>How removable</i>	(67)
VII. <i>Salary</i>	(61)

VIII. *Powers and Duties.*1. *Military.*

- (a) *Army and Navy* (63)
 (b) *Militia* (63)

2. *Civil.*

- (a) *Departments* (63)
 (b) *Reprieves and Pardons* (63)
 (c) *Treaties* (64)
 (d) *Appointments.*

1st, *General.*

- (a) *Diplomatic* (64)
 (b) *Judicial* (64)
 (c) *Others* (64)

2d, *Special* (65)

- (e) *Messages* (66)

(f) *Congress.*1st, *Convocation* (66)2d, *Adjournment* (66)3d, *Veto* (24) (25)

- (g) *Reception* (66)

- (h) *Executor of the Laws* (66)

- (i) *Commissions* (66)

CHAPTER XIX.

LESSON LVI.—EXECUTIVE.

THE Constitution says, "The executive power shall be
I. In whom vested in a President of the United States
vested (55). of America."

Under the Confederation, there was no such officer as a President of the United States. There was an Executive Committee of thirteen, one from each State, having no power except during the recess of Congress. Congress possessed the executive power while in session.

Energy in the Executive is one indispensable characteristic in the definition of good government, for the duty of this department is to see that the laws are faithfully and promptly executed. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be a bad government in practice.

The convention that formed the Constitution deliberated some time on the question whether to place the executive power in the hands of one or of several individuals. It was believed by all that, in the hands of one, the executive power would be more prompt and energetic; and this view settled the question. It is supposed to give a stronger sense of personal responsibility.

The Constitution says, "He shall hold his office during the term of four years."

II. Executive Term (55).

In the Constitutional Convention the period for which the Executive should be elected was a subject on which there was much debate and difference of opinion.

The several periods of one, two, three, four, six, and ten years, each had its advocates; and some members were in favor of an Executive for life, or during good behavior. Four years, the term finally adopted, was the result of compromise.

The Executive term should not be so short as to give no opportunity to test the utility of its measures; nor, on the other hand, should it be so long as to allow a corrupt and obstinate Executive to afflict the country with permanent mischief and disaster.

The presidential term commences on the fourth day of March next after the President's election; and in case of his death, removal, or resignation during his term, the person who succeeds to the duties of the office serves the unexpired portion of the term only.

The first four years of the twentieth century, March 4, 1901, to March 4, 1905, constitute the twenty-ninth presidential term since the adoption of our Constitution.

The Constitution says, "No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."

III. Eligibility.

The Constitution requires that the President shall be a natural-born citizen of the United States, or a citizen at the time of the adoption of

1. Citizenship (59).

the Constitution. This is a necessary restriction, when we consider the sacredness of the trust committed to the charge of the Executive.

Several of the sovereigns of Great Britain were persons of foreign birth. This qualification destroys any hopes that any intriguing foreigner might indulge of becoming the chief Executive of our Republic.

But throughout the bloody struggle of the American revolution our fathers were greatly assisted by the aid of many citizens who were natives of other countries. It would have been ungenerous and ungrateful to have excluded this class of citizens from all possibility of attaining to any office, however exalted, under a government which they had sacrificed so much to establish.

But the clause giving eligibility to a citizen at the time of the adoption of our Constitution, though of foreign birth, has become practically obsolete by the lapse of time.

The Executive is eligible to reëlection without limitation; but thus far in our history no Executive has been elected to the office beyond the close of his second term.

The age required was regarded as necessary to give the candidate for this office sufficient time to demonstrate his

2. Age (59). character, and to enable his fellow-citizens to judge of his fitness for the high position of

chief Executive of a great nation. The mental faculties are usually in full vigor at this age; and opportunities must have been afforded for long public service, and for varied and large experience in the public councils.

A residence of fourteen years within the United States is required. It might be presumed that long and continued

3. Residence (59). residence abroad would create not only indifference for the country of one's birth,

but a partiality for the institutions of other countries with which he has long been familiar.

This long residence in the United States is intended not only to give opportunity for an extensive acquaintance on the part of his fellow-citizens with the candidate for this office, but also to furnish *him* with the requisite knowledge of the wants and institutions of the country.

QUESTIONS.

1. In whom is the executive power vested ?
2. In whom was it vested under the Confederation ?
3. What does a feeble Executive imply ?
4. What does that imply ?
5. Give the views of the convention on the unity of the Executive.
6. How long is the Executive term ?
7. What variety of opinion was there on the Executive term ?
8. When does the term commence ?
9. What is the number of the present Executive term ?
10. What are the conditions of eligibility ?
11. Who might be President though foreign born ?
12. Why is the age named necessary ?
13. Why is so long a residence required ?

LESSON LVII. — EXECUTIVE, *Continued.*

There are but two ways of electing a chief magistrate of the United States. The first method is by electors appointed for that purpose ; and, if this method fails, the election devolves on the House of Representatives. We will consider the two methods.

IV. How elected.

In the convention that formed the Constitution, there were three methods proposed for electing a President. The first plan was by the two Houses of Congress on joint ballot. The second was by electors to be appointed by the several State Legislatures. The third was, and this prevails, to elect by electors appointed in such manner as the several State Legislatures

1. Electors.

might direct. The Constitution gives Congress the power to determine the time of choosing the electors. Congress has fixed by law that electors shall be chosen throughout the United States on the first Tuesday after the first Monday in the month of November of the year of the presidential election.

The electors in the several States are elected by the people, in the manner prescribed by the Legislatures of the
 (a) *Appointment (56).* respective States. No senator, representative, or other person holding a place of trust or profit under the United States, can be an elector of President and Vice-President. Thus the sense of the people more distinctly prevails than it would were the choice of President confided to persons holding other official positions.

The number of electors corresponds with the number of senators and representatives to which the States are respectively entitled in Congress. Thus each State has
 (b) *Number (56).* about the same influence in the election of President and Vice-President that it has in the national councils.

There are certain steps to be taken by the electors after their appointment, which are definitely specified by the Constitution.
 (c) *Proceedings.*

The first step to be taken by the electors after their appointment is to meet in their respective States. By a law of Congress, the State Legislature is authorized to direct as to the place of meeting.
 1st, *Meeting (57).* This place is generally, perhaps in all cases, the capital of the State. The meeting of the electors, by law of Congress, takes place on the second Monday in January next after they are chosen. All the electors meet on the same day.

The meeting is a mere matter of form. They are expected to cast their votes for the candidates of the political

parties according to previous pledges. No discussion of the merits of the candidates takes place. The electors are chosen wholly with reference to particular persons who have been put in nomination at a convention called for that purpose. This, however, is a gross perversion of the intention of the authors of the Constitution. It is the result of modern political party management.

The votes must be given by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. According to this provision, a State would lose its vote if given for candidates both of whom were citizens thereof. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President.

2d, Voting (57).

The electors are required by the Constitution to make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each.

3d, Making Lists (57).

These lists are to be signed and certified by the electors.

4th, Signing and certifying Lists (57).

These lists are to be transmitted to the seat of the government of the United States.

5th, Transmitting Lists (57).

These certificates are to be directed to the president of the Senate.

6th, Directing Lists (57).

By law of Congress, the electors are to make and sign three certificates of all the votes given. They are to seal up these certificates, and to certify on each that a list of the votes of their States respectively for President and Vice-President is contained therein.

They shall appoint a person to take charge of and deliver one of these certificates to the president of the Senate at the seat of government before the fourth Monday of January then next ensuing.

Another of the certificates is to be forwarded forthwith by mail to the president of the Senate at the seat of government.

The third certificate is to be delivered to the judge of the district court in which the electors assemble.

It will be observed that the certificates are now in the hands of the president of the Senate, and
(d) In Congress. the steps are to be taken for canvassing the votes certified therein.

A joint meeting of the two Houses of Congress is then
1st, Joint Meeting (57). called; and this takes place, by law of Congress, the second Wednesday of February following the reception of the certificates. The meeting is in the Hall of Representatives.

“The president of the Senate shall, in presence of the
2d, Opening Certificates (57). Senate and House of Representatives, open all the certificates.”

“The votes shall then be counted.” The counting of
3d, Counting Votes (57). the votes is done by tellers appointed for that purpose by the House and the Senate.

On one occasion, in 1877, Congress by special law constituted an Electoral Commission consisting of five senators, five representatives, and five justices of the Supreme Court, who were authorized to decide which of two conflicting sets of votes from certain States should be counted.

The Constitution says, “The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed.”

But if no candidate shall receive a majority of the electors appointed, then, by the Constitution, the election of that officer devolves upon the House of Representatives.

This occurred in the year 1825, and may occur at any election when there are three or more candidates.

QUESTIONS.

14. How many methods of electing a President, and what are they?
15. How many and what plans were proposed?
16. How are electors appointed?
17. Who may not be appointed electors?
18. Why is this?
19. How many electors for each State?
20. What are the various steps required to be taken by the electors?
21. What restrictions on the voting?
22. How must the lists be transmitted?
23. What are the steps for canvassing the votes in Congress?
24. What is the result?

 LESSON LVIII. — EXECUTIVE, *Continued.*

When the people fail to elect the chief Executive, it seems proper to refer the matter for decision to the House of Representatives. This seems to be the *2. House of Representatives*, most appropriate body, as the members of which it is constituted are chosen by the popular voice, and are the more immediate representatives of the people.

The Constitution says, "A quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all (a) *Quorum* (57). the States shall be necessary to a choice."

A majority can transact the ordinary business of legislation; but the election of a chief magistrate of the nation was regarded by the authors of the Constitution as a matter of such grave interest to the country, that they inserted this provision with unanimity.

When the election takes place in the House, the selection must be made from the persons already voted for by electoral vote. The House is not at liberty (b) *Eligibility* to take up a new candidate; but their selection must be confined to those receiving the highest (57).

numbers, not exceeding three, on the list of persons voted for as President. This provision is made for the purpose of excluding from the list all such persons as receive but a small number of the electoral votes.

In choosing the President by the House of Representatives, the Constitution requires that the votes shall be taken by States, the representation from each State having one vote. There is a greater chance of an election, when there are three or more candidates, in this mode than by a mere representative vote according to numbers, as the same divisions would probably exist in the popular branch as in their respective States.

The vote must be taken by ballot.

As a majority of all the States is necessary to a choice, it might so happen that the House of Representatives would be unable to elect a President. For instance: were there three candidates before the House, one might receive the votes of nineteen States, and the other two the votes of thirteen States each; in which case there would be no choice, as neither would have a majority of all the States. The House might continue to vote with the same, or nearly the same, result until the fourth day of the next March, at which time the House would lose jurisdiction of the subject, and could vote no longer.

The Constitution makes provision for precisely this condition of things. The following would be the result:—

“And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President.”

It will be seen, in considering the election of the Vice-President, that no probable contingency can arise to prevent the election of that officer.

QUESTIONS.

25. What if no candidate is elected by this process?
26. What is a quorum for election in the House?
27. Why are so many required for a quorum?
28. To whom is the election in the House confined?
29. Why is this so?
30. How are the votes taken?
31. How many votes are necessary to a choice?
32. How long may the House continue to vote if they do not succeed in electing a President?
33. What if the House finally fail to elect?

 LESSON LIX. — EXECUTIVE, *Continued.*

Before the President enters on the execution of his office, he is required to solemnly swear or affirm that he will faithfully execute the duties thereof, and, *V. Oath of Office (62).* to the best of his ability, preserve, protect, and defend the Constitution of the United States.

Mr. Justice Story says, "This is a suitable pledge of his fidelity and responsibility to his country, and creates upon his conscience a deep sense of duty, by an appeal at once, in the presence of God and man, to the most sacred and solemn sanctions which can operate upon the human mind."

The Constitution says, "The President and Vice-President, and all civil officers of the United States, shall be removed from office on *VI. How removable (67).* impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

This subject has been noticed in treating of the Senate of the United States (see the author's larger work, *Analysis of Civil Government*).

The Constitution says, "The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during *VII. Salary (61).* the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them."

Without this clause, the Executive would be dependent for his support on the will of Congress. By securing their favor, his salary might be greatly enlarged; and, by incurring their displeasure, it might be greatly diminished. His salary cannot be changed during his term of office.

From the beginning of the Executive office under our government to the close of President Grant's first term, 1873, the salary was \$25,000 a year. From March 4, 1873, till the close of President Roosevelt's second term, 1909, it was \$50,000. Since March 4, 1909, it has been \$75,000. In addition to his salary, which is fixed by law of Congress, he has the use of the White House, as the presidential mansion is called. It is also furnished for him and taken care of, the grounds cultivated, his fuel and light provided, and many other things at the expense of the public treasury.

QUESTIONS.

34. What is the President's oath of office?
35. What does Judge Story say about this oath?
36. How is the President removable?
37. What is the constitutional provision about his salary?
38. What is the advantage of this provision?
39. What was the salary until President Grant's second term, and what is it now?
40. What is furnished him besides his money salary?

LESSON LX. — EXECUTIVE, *Continued.*

The Constitution says, "The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States."

VIII. Powers and Duties.

1. Military (63).

It is not to be inferred from this clause of the Constitution that the President is actually to take command in person in case of war. This is not the intention, though he has the power were he so disposed. It might be proper that the President should actually place himself at the head of an army in the field, were he known to be an experienced and skillful military commander.

He is the head of the army in the same sense that he is the head of the nation. He may control its general operations and movements. He directs the application of the military force in the execution of the laws, in maintaining peace at home, and in resisting foreign aggression. These duties are of an executive character, and are properly vested in the President, that unity of plan, promptitude, activity, and decision may be secured.

For the same reasons, the Executive is made commander-in-chief of the militia of the several States when called into the actual service of the United States. In order that there may be unity of action, uniformity of training and discipline, and concert of purpose, it is necessary that regulars and militia should be subordinate to a single head.

The Constitution says, "He may require the opinion in writing of the principal officer in each of the executive departments on any subject relating to the duties of their respective offices."

2. Civil.

(a) Departments (63).

The Constitution says, "He shall have power to grant (b) *Reprieves and Pardons* (63). the United States, except in cases of impeachment."

A reprieve is the temporary suspension of the execution of sentence, especially the sentence of death. A pardon is the remission of a penalty, and a release of the offender from punishment. Reprieves may become necessary or expedient on account of doubts of guilt, arising from the discovery of new testimony after sentence and before execution; or considerations of public policy may require a like interference. The same reasons might justify the grant of a full pardon.

Discretionary power over such cases should be vested somewhere, "as the law cannot be framed on principles of compassion." The chief executive magistrate should be allowed to hold a court of equity in his own breast, to soften the rigor of the general law in such criminal cases as may merit an exemption from punishment, or as may properly plead for temporary delay of execution of sentence.

There is no power under our government to extend pardon to a person convicted on impeachment.

The Constitution says, "He shall have power, by and (c) *Treaties* (64). with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur."

The definition of treaty will be found in the chapter on the "Senate of the United States."

In forming treaties, the entire plan, with all its conditions and stipulations, is settled through the President on the part of the United States. He acts through ambassadors and foreign ministers duly accredited by our government, or commissioners specially appointed for the purpose.

The entire proposed treaty is submitted to the Senate by the President. The Senate discusses it in secret session. No treaty can be complete, on the part of our government, until ratified by the Senate.

QUESTIONS.

41. What is the President's military position ?
42. In what sense is he the head of the army ?
43. What may he require of department officers ?
44. What power has he over reprieves and pardons ?
45. What are they ?
46. When may they become necessary ?
47. What is said of pardon in cases of impeachment ?
48. What power has the President over treaties ?
49. What is a treaty ?
50. Who settles the plan of treaties on the part of government ?
51. Through whom does he act ?
52. What is necessary to the completion of a treaty ?

LESSON LXI. — EXECUTIVE, *Continued.*

The Constitution says, "He shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers, and ^(d) *Appoint-* consuls, judges of the Supreme Court, and *ments* (64) (65). all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

When nominations are made by the President, they are presented to the Senate in writing ; and this body acts upon them in secret session, and under the injunction that discussions on their merits or the qualifications of the nominees shall be kept secret. A majority of the Senate

decides the question of confirmation or rejection of the candidate nominated.

If the nominee is confirmed, or the nomination ratified, the President issues a commission accordingly, unless, in the mean time, he has concluded to decline it, which he is at liberty to do; in which case, he may make another nomination.

An ambassador is a minister of the highest rank, employed by government to represent it, and to manage its interests at the court or seat of government of some other power.

The word "minister," as used in the Constitution, has nearly the same signification as "ambassador," especially "minister plenipotentiary."

A consul is a person commissioned to reside in a foreign country, as an agent or representative of a government, to protect the rights, commerce, merchants, and seamen of the State, and to aid in any commercial, and sometimes in diplomatic, transactions with such foreign country.

The judges of the Federal courts are the judicial officers, and are the only ones under our government whose appointments are for life, or during good behavior.

The other officers include the heads of the several executive departments, and constitute what is called the President's cabinet. They are the secretary of state, secretary of the treasury, secretary of war, attorney-general, postmaster-general, secretary of the navy, secretary of the interior, secretary of agriculture, and secretary of commerce and labor. They also include military and many minor civil officers.

The President is also authorized to make special appointments to fill vacancies:—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

The clerks, letter carriers, and other minor civil officers have become so numerous that Congress in 1885 authorized the President to appoint a Civil Service Commission, which aids him in making rules governing appointments, and manages the examination of applicants for office.

The Constitution says, "He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." *(e) Messages (66).*

Under this clause the practice originated, and has continued, of delivering formal messages, annual and special, to Congress. The President has means of information on all subjects, foreign and domestic, far superior to those belonging to any other branch of the government.

On account of his intimacy with the heads of departments, he may be presumed to be in possession of valuable information regarding the workings of the laws, the systems of trade, finance, and the operations of the judiciary, military, naval, and civil establishments of the Union. He is therefore qualified to communicate information on these subjects in the most practical form, and to recommend such measures as may be necessary for the correction of any defects which may have become apparent.

QUESTIONS.

53. What control has the President over appointments?
54. How does he present his nominations to the Senate?
55. How does the Senate act upon them?
56. What is an ambassador?
57. What is a minister?
58. What is a consul?
59. What is said of judges of the Supreme Court?
60. What are the other officers whom the President may nominate and appoint?
61. When may the President fill vacancies?

62. What is the constitutional provision about messages?
 63. What practice has grown out of this provision?
 64. What are the President's means of information on the state of the Union?
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LESSON LXII. — EXECUTIVE, *Continued.*

The Constitution says, "He may, on extraordinary occasions, convene both Houses, or either of them; and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper."

(f) *Congress.* Events may occur, entirely unforeseen by the Congress at its last session, imperiling the interests of the country, and requiring the immediate convocation of that body. An event of this kind transpired in the month of April, 1861, from the date of which hostilities became general between the North and the South. President Lincoln summoned Congress to meet the fourth day of the following July.

1st, Convocation (66). The power to call a meeting of Congress must be vested somewhere; and that it should be committed to the discretion of the Executive, all agree.

It might be barely possible that Congress should fail to agree on the time of adjournment; and, should such an exigency arise, the Executive seems the most suitable third party to interfere for the peaceable termination of the controversy. In England the sovereign convenes and prorogues the Parliament.

3d, Veto (24) (25). When a bill passes both Houses of Congress, it is presented to the Executive for his signature. Should he approve it, he signs it; but if not, he returns it, with his objections, to the House in which it originated. These objections are called the President's veto.

But his veto is not absolute, only qualified: for, if it shall be repassed by a vote of two thirds of each House, it becomes a law notwithstanding the President's objections (see Paragraphs (24) and (25) of the Constitution).

The Constitution says, "He shall receive ambassadors and other public ministers."^(g) *Reception (66)*.

The reception of ambassadors and other public ministers is a recognition of the national character and standing of the countries which they represent. Their reception may therefore become a very nice and delicate question with the Executive.

The Executive is not obliged to receive an ambassador or public minister, even though he comes clothed with proper authority from a nation with whom we are at peace, and which is recognized among the great family of nations.

Although it requires the assent of the Senate, when that body is in session, to send an American minister to a foreign court, it does not require their assent to receive foreign ministers at our own capital. In such cases the President is the sole organ of recognition (see author's *Analysis of Civil Government*).

The Constitution says, "He shall take care that the laws be faithfully executed."

^(h) *Executor of the Laws (66)*.

This clause makes it the duty of the President faithfully to execute the laws of Congress. When a law has been passed by all the forms of legislation, he has no discretion. He must not only render obedience to the law himself, but must enforce its execution on all others. Were he to refuse, he would be guilty of a high misdemeanor, and might be removed from office by impeachment, and otherwise punished according to law.

He has ample power to execute the laws, as, for this purpose, the whole military force of the country is at his command, and under his control.

The Constitution says, "He shall commission all officers (i) *Commissions* of the United States."

(66). A commission is a formal certificate of appointment issued by the proper authority. In this case, it is signed by the President of the United States, and sealed by the secretary of state with the great seal of the United States. The commission recites the powers conferred, with definite certainty; and it is usually delivered to the person whose appointment is made by it, though delivery is not necessary to the validity of the appointment.

QUESTIONS.

65. What does the Constitution say about the President adjourning and convening Congress?
66. Why should this power be vested in the President?
67. What is said of his veto power?
68. What is said about the reception of foreign ministers?
69. Why should this duty be assigned to the President?
70. What if the President should decline to execute the laws?
71. What power has he to execute them?
72. What is a commission?
73. Who commissions the officers of the United States?

BLACKBOARD EXERCISE.

VICE-PRESIDENT.

I. Eligibility	(57)
II. Election.	
1. In Congress	(57)
2. In Senate	(57)
III. Oath of Office	(84)
IV. Term	(55)
V. Powers and Duties.	
1. President of the Senate	(11)
2. Acting President of the United States	(60) (57)

CHAPTER XX.

LESSON LXIII.—VICE-PRESIDENT.

THE Constitution says, “No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.”

I. *Eligibility* (57).
If the Executive office becomes vacant, the Vice-President performs the duties thereof. He should therefore have the same qualifications as President. These are, that he must be a natural-born citizen, or a citizen of the United States at the adoption of the Constitution; that he must be thirty-five years of age; and that he must have been fourteen years a resident within the United States.

Five times in our history has a Vice-President been called to serve out an unexpired term of the presidential office. William Henry Harrison, President, died April 4, 1841: John Tyler, then Vice-President, succeeded to the duties of the Executive office. Zachary Taylor, President, died July 9, 1850: he was succeeded by Millard Fillmore, then Vice-President. Abraham Lincoln died April 15, 1865; he was succeeded by the Vice-President, Andrew Johnson. President Garfield died Sept. 19, 1881; and the next day Vice-President Arthur took the oath of office as President. President McKinley died Sept. 14, 1901; and Vice-President Roosevelt succeeded to the office.

The Constitution says, “The person having the greatest

number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President: a quorum for the purpose shall consist of two thirds of the whole number of Senators; and a majority of the whole number shall be necessary to a choice."

II. Election.

The first part of this constitutional clause refers to the counting of votes and other proceedings in Congress. If no person receives a majority of the electoral votes as Vice-President, of course the people have failed to elect that officer. The election must now go to the Senate of the United States.

1. In Congress (57).

As just stated, if no person receives a majority of the electoral votes, the Senate is to choose the Vice-President from the two highest numbers on the list as candidates for that office. This renders it improbable that the Senate should fail to elect that officer.

2. In Senate (57).

As the Vice-President is the President of the Senate, it seems proper that the Senate should elect this officer in case of failure to elect by the electors.

The Senate has chosen but one Vice-President in our history. This was Richard M. Johnson, in 1837.

QUESTIONS.

1. To what office must the Vice-President be eligible?
2. Why should this be so?
3. What are the three conditions of eligibility?
4. How many times, and in what instances, has the Vice-President been called to the presidential office?
5. In what two ways may the Vice-President be elected?
6. To what candidates is the Senate confined in its choice?
7. Why is it proper that the Senate should elect this officer?
8. What Vice-President was elected by the Senate?

LESSON LXIV. — VICE-PRESIDENT, *Continued.*

The Vice-President is among the officers required to take the oath or affirmation, before entering on the duties of his office, to support the Constitution of the United States.

III. Oath of Office (84).

The official term is four years. The same reasons that governed in fixing the presidential term at four years apply with equal force to the term of the Vice-President.

IV. Term (55).

The Constitution says, "The Vice-President of the United States shall be president of the Senate, but shall have no vote unless they be equally divided."

V. Powers and Duties.

1. President of the Senate (11).

The duties of the Vice-President as president of the Senate are such as usually devolve on the presiding officer of legislative bodies. He is to preside over the deliberations of the Senate, enforce the rules of order, maintain due decorum among the members, and decide all questions of parliamentary practice.

The speaker of the House of Representatives has the appointment of standing committees; but the president of the Senate does not, as he is not a member of that body.

He submits all questions, duly made, to the Senate, puts to vote all questions brought forward for discussion and decision, and makes known the result.

The Constitution says, "In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President."

2. Acting President of the United States (60) (57).

He is also to act as President, if the House of Representatives shall fail to elect that officer when the right of choice shall devolve on them.

When the Vice-President acts as President, which has been the case several times in our history, he has uniformly been recognized as President by both Houses of Congress (see *Analysis of Civil Government*, by the author).

QUESTIONS.

9. What is the nature of the Vice-President's oath of office?
10. How long is the term of the Vice-President, and why?
11. What are the powers and duties of the Vice-President?
12. Wherein do his duties differ from those of the speaker of the House?
13. In what cases do the duties of the Executive devolve on the Vice-President?
14. In such cases, what is his title of office?

BLACKBOARD EXERCISE.

JUDICIAL.

- I. *Where vested.*
 1. *Supreme Court* (68)
 2. *Inferior Courts* (68)
- II. *Judges.*
 1. *How appointed.*
 - (a) *President* (64)
 - (b) *Senate* (64)
 2. *Oath of Office* (84)
 3. *Tenure of Office* (68)
 4. *How removable* (67)
 5. *Salary.* (68)
- III. *Jurisdiction.*
 1. *Limitation* (69)
 2. *Original* (70)
 3. *Appellate* (70)

CHAPTER XXI.

LESSON LXV.—JUDICIARY.

To establish justice was one of the principal objects, as expressed in the Preamble, to be secured by the adoption of the present Constitution of the United States: hence it was necessary to create a national judiciary. A government having no judiciary that commands the respect of the people is wanting in one of the essential elements of stability.

*Necessity of a
National Judi-
ciary.*

There was no national judiciary under the Confederation; and, of course, there were no national courts. The only courts were State tribunals. The State Legislatures often passed laws favoring their own respective localities, and State courts were too ready to disregard the decisions of coördinate tribunals of neighboring States.

Treaties formed between the Confederation and foreign nations were recklessly disregarded by the State Legislatures as well as by the State courts. In several instances this open disregard of the plighted faith of the nation threatened to involve the whole country in war.

Laws were passed by the State Legislatures, in many instances, in open defiance of the sacredness of private contracts between man and man. Remedies for the recovery of debts were suspended. Debtors were authorized to tender any sort of property, even though nearly worthless, in payment of debts that had been contracted to be paid in money.

Insolvent laws were enacted by some of the States, the effect of which, when applied to the relations of debtor and creditor, practically amounted to a complete discharge of indebtedness without consideration.

Laws were also passed making the most unjust and invidious distinctions in favor of the citizens of the States enacting them, and against foreigners and citizens of neighboring States. In fact, the American judiciary became a matter of contempt at home and of burlesque abroad.

There were other evils that called loudly for remedy. Some related to the welfare of our foreign commerce, some to the conflict of interests between citizens of different States, some to the relief of foreigners who had given credit to our citizens; others related to territorial disputes between different States, and still others to titles of lands under grants from different States.

So loose and reckless had the legislative and judicial administration of affairs become, that it was conceded by all parties, that, unless some effectual remedy were applied, our political institutions must crumble into ruins.

QUESTIONS.

1. What was one of the objects of the Constitution?
2. What necessity did this create?
3. What is said of a government having a feeble judiciary?
4. What kind of courts were under the Confederation?
5. What did the State Legislatures and State courts do?
6. What was the result?
7. What danger appeared?
8. What kind of State laws were passed?
9. How did these affect creditors?
10. What distinctions were made in some of the State laws?
11. What other evils existed, arising from a defective judiciary?
12. What was the opinion of all political parties of that day?

LESSON LXVI.— JUDICIAL.

The Constitution says, "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."^{*I. Where vested.*}

The Supreme Court is a part, and only a part, of the national judiciary. It is established by the *1. Supreme Court Constitution*, but organized by Congress. (68).

The judges of the Supreme Court at present are one chief justice, and eight associate justices, any six of whom constitute a quorum.

Ever since this court was organized, September, 1789, it has had a chief justice; but the number of associate justices has been varied several times by acts of Congress. At first the number was fixed at five; March 3, 1837, at eight; March 3, 1863, at nine; April 10, 1869, at eight, the present number.

This court holds one term a year in the city of Washington, beginning on the second Monday in the month of October.

The establishment of inferior tribunals would seem to result necessarily from the establishment *2. Inferior Courts* of a Supreme Court. Recourse could not be had to the Supreme Court in all cases which might properly be subjects of Federal adjudication. (68).

It would be out of the power of any single court to dispose of the immense amount of business that would be sure to demand their attention. Without inferior tribunals easy of access, the sanctuary of justice would be closed to the great majority of American citizens.

Under the authority to establish inferior tribunals, each State or district can have a Federal court or courts compe-

tent to the adjudication of all matters of Federal jurisdiction within its limits.

The United States are divided, for judicial purposes, into nine circuits, and these circuits into about eighty districts. Each judge of the Supreme Court is allotted to a circuit, and two or more circuit judges are appointed for each circuit. Usually one district judge is appointed for each district, but in some cases there are two or more.

In each circuit there is a circuit court of appeals, consisting of three judges, designated from time to time from among the circuit and district judges, and the justice of the Supreme Court assigned to the circuit.

Each district judge sits as a district court in his district.

Because there are very many claims against the United States, and disputes over the fixing of railroad rates, and disputes over the rates of duty levied on imported goods, Congress has created special courts to try these kinds of cases: the court of claims, the commerce court, and the court of customs appeals.

These kinds of courts, — circuit, district, and special, — together with the courts in the District of Columbia, are, in the constitutional sense, inferior courts.

Thus there are five classes of Federal courts:—

1. The Supreme Court of the United States, established by the Constitution, but organized by Congress.
2. The circuit courts of appeals, established and organized by Congress.
3. The district courts of the United States, established and organized by Congress.
4. Courts for special kinds of cases, established and organized by Congress.
5. The courts of the District of Columbia, also established and organized by Congress.

QUESTIONS.

1. Where is the judicial power vested?
2. What is the Supreme Court?
3. How established and organized?
4. How many judges of the Supreme Court?
5. When and what have been the changes as to justices?
6. When and where does the court hold its term?
7. What is the necessity of inferior courts?
8. How is the United States divided for judicial purposes?
9. Who preside over district courts?
10. How many circuit courts of appeals, and by whom are they held?
11. What are the inferior courts?
12. How many and what classes of Federal courts?

 LESSON LXVII.—JUDICIAL, *Continued.*

The mode of appointing the judges has been noticed in treating of the Executive powers. The power is expressly given to the President in the Constitution, *II. Judges.* by and with the advice and consent of *1. How appointed* the Senate, to appoint the judges of the *(64).* Supreme Court; but nothing is said therein about the method of appointing the judges of the inferior courts. As the judges of circuit have concurrent powers with the justices of the Supreme Court in their circuits, there is no question with regard to them.

But whether the judges of the district courts, and the other important courts created by Congress, are inferior officers in the constitutional sense, so that Congress may provide for their appointment, has never been settled by adjudication. But thus far the uniform practice has been to regard them *not* as inferior officers; but their appointments have been made by the President, with the concur-

rence of the Senate, the same as judges of the Supreme Court.

The oath of office of all Federal judicial officers is the same as that of officers of the other departments of government ; that is, that they will support the
2. Oath of Office (84). Constitution of the United States, and, to the best of their ability, perform the duties of their respective offices.

For reasons well known to the experienced lawyer and
3. Tenure of jurist, the tenure of office of the judges
Office (68). should be made permanent and secure, depending only on their good behavior.

When the Constitution was before the people for their consideration, one of the most gifted statesmen of that day gave his views on this subject in the following language :—

“ 1st, That they may be independent and fearless in the discharge of their responsible duties, it is necessary that they should hold by the will of no man, or set of men. They must feel dependent on no earthly power for their continuance in office. After appointment, were they in any manner dependent on executive, legislative, or popular favor, the scales of justice might be doubtfully balanced, and confidence in the judiciary would be seriously disturbed.

“ 2d, This independence could hardly be expected from judges who hold their offices by a temporary tenure. Periodical appointments, however regulated, or by whomsoever made, would be fatal to their necessary independence.

“ 3d, If the power of making them were committed either to the Executive or Legislature, there would be danger of an improper complaisance to the branch which possessed it ; if to both, there would be an unwillingness to hazard the displeasure of either ; if to the people, there would be

too great a disposition to consult popularity, to justify a reliance that nothing would be consulted but the Constitution and the laws.”

The subject of removal of Federal officers by impeachment has been fully considered in other *4. How removable (67)*. The judges of the Supreme and inferior courts are subject to removal for impeachable offenses.

Provision is wisely made, that, as the judge's salary is at the time he enters on the duties of his office, so it shall continue to be throughout his official existence, unless Congress shall see fit to *5. Salary (68)*. increase it: in other words, it cannot be diminished. To allow the legislative authority to diminish the salaries of the judges would be to give that authority control over their support; and to control their support is to control their will.

The salary of the chief justice is fifteen thousand dollars a year; that of the associate justices, fourteen thousand five hundred dollars each.

The Constitutional provision in reference to this subject is as follows:—

“The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office.”

QUESTIONS.

13. By whom are the judges of the Supreme Court appointed?
14. By whom are the judges of the other courts appointed?
15. What is their oath of office?
16. What is their tenure of office?
17. What reasons are given by an eminent statesman for this?

18. How are the judges removable?
 19. What is said about the salaries of the judges?
 20. What is the amount of each?

LESSON LXVIII.—JUDICIAL, *Continued.*

The Constitution says, "The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

III. Jurisdiction.
1. Limitation (69).

This clause defines the entire jurisdiction of the judiciary of the United States, so far as it relates to subject-matter. By judicial power, as here used, we are to understand the power of the national courts in the administration of justice. The word "power" refers to jurisdiction, or the authority of the court.

The subject-matter of a cause in court is the thing or question to be decided: the parties are the persons or corporations legally interested in the decision of the court on the subject-matter.

"The word 'law' is generally understood, as defined by law-writers, to be the supreme power of the State, through its Legislatures, commanding what is right and prohibiting what is wrong.

"The word 'equity,' as applied to judicial proceedings, does not mean contrary to law, but it reaches cases to which the law cannot be applied by reason of its universality.

"The object of equity jurisprudence is to supply the deficiencies of the courts of law, and to render the administration of justice more complete, by affording relief where the courts of law, in consequence of imperfections of their machinery, or of their too rigid adherence to

peculiar forms, are incompetent to give it, or to give it with effect."

Jurisdiction is of two kinds, — original and appellate.

Original jurisdiction is jurisdiction of a cause from its beginning. If a party can begin his suit in the Supreme Court, for instance, we say the Supreme Court has original jurisdiction in the case. If he cannot bring his case into that court until it has been first tried in some lower court, then we say the Supreme Court has appellate jurisdiction.

Some kinds of causes can be commenced in either of two different courts. Such courts, in such cases, are said to be courts of *concurrent* jurisdiction; that is, either court has jurisdiction of such a cause. If there is but one court in which a case can be brought, that court is said to have *exclusive* jurisdiction.

The Supreme Court of the United States has original or appellate jurisdiction in all cases arising under the Constitution and laws of the United States, and under treaties, except certain classes of cases, which can be appealed only to the circuit court of appeals.

QUESTIONS.

21. What is the extent of the judicial power?
22. What is meant by judicial power as here used?
23. What is the subject-matter?
24. What is the meaning of the word "law"?
25. What is the meaning of "equity"?
26. What is the object of equity jurisprudence?
27. How many kinds of jurisdiction, and what is each?
28. What is concurrent jurisdiction?
29. When is a court said to have exclusive jurisdiction?

LESSON LXIX.—JUDICIAL, *Continued.*

By constitutional provision the Supreme Court has original jurisdiction in the following cases:—

2. Original Jurisdiction (70). 1. In all cases affecting ambassadors, other public ministers, and consuls.

2. Those in which a State shall be a party.

The last include controversies,—

1st, Between two or more States ;

2d, Between a State and the citizens of another State ;
and,

3d, Between a State or the citizens thereof, and foreign states, citizens, or subjects.

In all the foregoing classes of cases, suits may be commenced in the Supreme Court.

But by the Eleventh Article of Amendment to the Constitution,

“The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.”

How is a person to obtain relief, then, in case he has a claim against a State? In the first place, it is presumed that no wise government will withhold justice from its citizens. The citizen to whom the State may be indebted can petition the Legislature direct for redress, unless some other means have been instituted by the State.

Again, in some of the States, courts of claims have been established for the same purpose, into which the citizen can bring his claim, by petition or otherwise, for adjudication ; and, if he shows the State to be indebted to him, the Legislature will make provision for payment.

In 1855 a court of claims was established, by act of

Congress, to hear and determine claims against the United States. The demand is presented to the court by petition, setting forth specifically its origin and nature; and the party is allowed to prove it by the same rules of evidence as are usually adopted in courts of justice. If a claim is established, Congress makes provision for its payment. An attorney, called the solicitor of the United States, appears in behalf of the government before this court.

QUESTIONS.

30. In what cases has the Supreme Court original jurisdiction?
31. What restrictions are included in the Eleventh Article of Amendment?
32. How is relief to be obtained against a State?
33. When, and for what purpose, was a court of claims established?

LESSON LXX. — JUDICIAL, *Continued.*

By the Constitution the Supreme Court has appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as Congress shall make,

*3. Appellate
Jurisdiction
(70).*

1st, In all cases of admiralty and maritime jurisdiction.

2d, In controversies to which the United States shall be a party.

3d, Between citizens of different States.

4th, Between citizens of the same State claiming lands under grants of different States.

What is meant by appellate jurisdiction has already been explained. By cases of admiralty and maritime jurisdiction, reference is had to the power to try and determine, on appeal, all causes originating on the high seas, or on rivers, ports, or harbors communicating with the sea, and out of the reach of ordinary courts of justice.

Admiralty causes must arise wholly on the sea or on waters immediately communicating with the sea, and not within the jurisdiction of any country. On the high seas, all nations claim a common right and a common jurisdiction; and therefore causes originating there should come exclusively under the jurisdiction of the national courts.

They cannot be brought, however, in the first instance, into the Supreme Court of the United States, but may be appealed into that court, or into the circuit court of appeals, after having been commenced and tried by a lower court of the United States, which, by a law of Congress, is an admiralty court.

The subjects for adjudication which properly come into courts of admiralty are, captures in war made on the high seas, captures in foreign ports and harbors, captures made on land by naval forces, and captures made in the rivers, ports, and harbors of the captor's own country.

If an American, commissioned with letters of marque and reprisal, shall make captures as aforesaid, it is his duty to bring them into the court for adjudication. If the court shall decide that the things in controversy were lawfully captured, and according to the usages of war and law of nations, they are awarded to the captors. If the decision is that they were unlawfully seized, they will be awarded to the owners, with damages for detention.

The ordinary admiralty and maritime jurisdiction also embraces all civil and criminal cases of a maritime nature. The district courts of the United States, however, as courts of admiralty and maritime jurisdiction, are limited to the trial of crimes and offenses for which but moderate punishment is inflicted. The graver and higher crimes are referred to the circuit courts as courts of admiralty.

Controversies in which the United States shall be a party are to be adjudicated in the Federal courts. Cases

in which the whole people are interested should not be left to the decision of a State court. The United States must bring suit, however, in the first instance, in the inferior courts, — that is, in the district courts, — and cannot reach the Supreme Court except by appeal.

“Unless this power were given to the United States, the enforcement of all their rights, powers, contracts, and privileges, in their sovereign capacity, would be at the mercy of the States. They must be enforced, if at all, in the State tribunals. Not only would there be no compulsory power over those courts to perform such functions, but there would be no means of producing uniformity in their decision.”

By act of Congress a citizen of one State may bring suit against a citizen of another in the district court of the United States in civil matters, provided the matter in controversy exceeds five hundred dollars exclusive of costs. An alien may sue or be sued in this court also for the same amount; and these courts have original jurisdiction also in matters relating to the United States revenue and to patents, being cases that arise under the laws of the United States. In all these cases the circuit court of appeals has appellate jurisdiction.

Controversies between citizens of the same State claiming lands under grants of different States must be adjudicated in the United States courts. State courts cannot be supposed to be unbiased in cases of this nature. Claims to lands under grants of different States, founded on adverse pretensions of boundary, would almost forbid the possibility of judicial fairness, candor, and impartiality on the part of the State courts of either granting State.

At first the Supreme Court had appellate jurisdiction in all cases brought before the inferior courts; but in time the appeals became so numerous that their decision was

often delayed for several years. To relieve this pressure of business, Congress, in the exercise of its constitutional prerogative to regulate the appellate jurisdiction of the Supreme Court, created, in 1891, the circuit court of appeals. This court has appellate jurisdiction only. Certain cases which formerly were appealed directly to the Supreme Court must now be appealed to the circuit court of appeals. Under certain restrictions and limitations, an appeal may be taken from this court to the Supreme Court.

QUESTIONS.

34. In what cases does the Supreme Court have appellate jurisdiction?
35. By what power may this jurisdiction be restricted?
36. To what do cases of admiralty and maritime jurisdiction refer?
37. Where must admiralty causes arise?
38. Why should these causes be confined to the national courts?
39. What are the subjects for admiralty courts?
40. What is the duty of an American who makes captures under letters of marque and reprisal?
41. What is the result of trial in such cases?
42. What crimes may be tried in the district courts?
43. Where are the higher crimes tried?
44. Where are controversies to be tried to which the United States is a party, and why?
45. In what cases may a citizen of one State sue a citizen of another State in the circuit courts?
46. In what cases has the circuit court original jurisdiction?
47. Why should controversies relating to lands claimed under grants of different States be referred to the Federal courts?
48. What is said about the circuit court of appeals?

BLACKBOARD EXERCISE.

STATE GOVERNMENT OF MISSOURI.

- I. *State Constitution.*
 1. *Historical.*
 2. *Comparison with Federal.*
 3. *Amendment.*
- II. *Legislative Department.*
 1. *General Assembly.*
 2. *Apportionment.*
 3. *Terms and Qualifications.*
 4. *Sessions.*
 5. *Presiding Officers and Committees.*
 6. *Extent of Powers.*
 7. *State Laws.*
 8. *General and Special Laws.*
 9. *Enactment of Laws.*
 10. *Election of United States Senators.*
- III. *Executive Department.*
 1. *Governor.*
 2. *Lieutenant-Governor.*
 3. *Secretary of State.*
 4. *Auditor.*
 5. *Treasurer.*
 6. *Attorney-General.*
 7. *Superintendent of Public Schools.*
 8. *Other Officers.*

IV. *Judicial Department.*

1. *Supreme Court.*
2. *Courts of Appeals.*
3. *Circuit Courts.*
4. *Inferior Courts.*

V. *Personal Rights.*

1. *Bill of Rights.*
2. *Citizenship.*
3. *Suffrage.*
 - (a) *Qualifications.*
 - (b) *Residence.*
 - (c) *Registration.*

VI. *Elections.*

1. *Subdivisions.*
2. *Time and Place.*
3. *Manner of Voting*
4. *Counting the Votes.*

CHAPTER XXII.

LESSON LXXI.—GOVERNMENT OF THE STATE OF MISSOURI.

UPON renouncing their allegiance to Great Britain in 1776, the thirteen American Colonies became as many independent and sovereign States. They sent delegates to form the Continental Congress, but this body acted without definite powers for several years. The Articles of Confederation, which became binding March 1, 1781, formed a union with very limited powers. The adoption of the Federal Constitution in 1789 was to form a more perfect union, to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty for all the people. By this Constitution certain duties were imposed upon and certain rights granted to the General Government; all the powers not delegated to the United States by the Constitution, however, nor prohibited by it to the States, were reserved to the several States or to the people thereof. Except in the use of the post office and of a uniform currency, comparatively few citizens come in contact with the Federal Government. Nearly all other matters pertaining to the prosperity and security of the citizen in his daily life are controlled by the State government: it is therefore of great importance to

*I. State
Constitution.
1. Historical.*

understand the form of the State government under which we live.

The general plan of State government is set forth in a written constitution for each State. The constitutions of the original thirteen States were modeled to a great extent on the respective colonial charters, and became in turn the models upon which were framed the constitutions of the States that have since been admitted into the Union.

The United States first acquired control of the Mississippi Valley west of that river by purchase from France in 1803, the region being known as the Province of Louisiana. This region thus became the property of the nation at large, and was governed by officers appointed by the Federal authorities.

In the subdivision of this region by Congress, the portion within the present limits of Missouri became successively parts of the District of Louisiana in 1804, the Territory of Louisiana in 1805, and the Territory of Missouri in 1812. In 1819 the part of this Territory embraced within the present State (excepting the part west of the meridian passing through the mouth of the Kansas River, known as the Platte Purchase, and added to the State in 1836) applied for admission into the Union. The following year, Congress having granted the necessary permission, a State constitution was adopted; and on the 10th of August, 1821, Missouri became one of the United States, with power to manage its own local affairs.

The constitution of 1820 formed the organic law of the State until 1865, when a new constitution was adopted, which continued in force until replaced by a third one in 1875. The constitution of 1875, which forms the basis of the present State government, was adopted by vote of the people, Oct. 30, 1875, and went into operation Nov. 30, 1875. It is inserted in full on pp. 277-352 of this book.

The State and Federal constitutions agree in recognizing the people as the sole source of authority ; in separating the government into three distinct departments, — legislative, executive, and judicial ; in providing for a republican form of government ; and in stating the personal and political rights of citizens. The constitutions differ, however, in one important respect ; namely, the Federal Constitution recites specifically the powers conferred on the National Government, while the State constitution, subject to the Constitution of the United States, limits the power of the State government only by enumerating the matters over which it shall have no authority.

*2. Comparison
of State and
Federal Consti-
tutions.*

A method of amending or revising the constitution is provided in Article XV. (p. 346). The Legislative Department may at any time propose an amendment, which, after due publication and ratification by a majority of the qualified voters of the State, voting at the next general election, becomes part of the constitution.

*3. Amendment
or Revision.*

The question of revision of the constitution may also be proposed at any time by the Legislative Department ; but such revision requires the concurrence of a majority of the qualified voters of the State, voting at two elections, — one to decide that a convention of delegates to make the revision shall be held, and another subsequent election to ratify the work of this convention. The delegates to the convention are elected not less than three nor more than six months after the question of revision has been adopted by the people.

For the method of amending the constitution by initiative and referendum, see pages 353, 354.

LESSON LXXII. — THE LEGISLATIVE DEPARTMENT.

By Article IV. (p. 283) of the constitution, the lawmaking powers are vested in the General Assembly of the State of Missouri, consisting of two independent bodies of legislators elected by the people, and called respectively the Senate and the House of Representatives.

The Senate consists of thirty-four senators, while the number of representatives composing the House varies according to the population of the State, as ascertained by the most recent census. On the basis of the twelfth census (1900), there are 142 representatives. The members of both these bodies directly represent the people of the State.

Each county is entitled to at least one representative in the House, the city of St. Louis being considered as a county for this purpose. The number of representatives (greater than one) which a county may have depends upon its population, and is determined by the General Assembly (pp. 283-284). When a county is entitled to more than one and less than eleven representatives, it is the duty of the county court to subdivide the county into a corresponding number of compact districts, from each of which a representative shall be elected. In case a county is entitled to more than ten representatives, it is the duty of the circuit court to subdivide the county into districts, from each of which not less than two nor more than four representatives shall be elected. The apportionment after the census of 1900 entitled St. Louis (city) to sixteen representatives; Jackson County to six; Buchanan County to four; Jasper County to

three ; Greene and St. Louis Counties to two each ; and the other counties of the State to one each.

At the same time that the General Assembly apportions the representatives, it is also its duty (pp. 284-286) to divide the State into compact senatorial districts of as nearly equal population as may be. A senatorial district may embrace two or more contiguous counties, but in forming such a district no county may be divided. In case the population of a county entitles it to more than one senator, it is the duty of the circuit court to subdivide it into a corresponding number of compact senatorial districts of approximately equal population. If the General Assembly fails to redistrict the State for senators, as provided, it then becomes the duty of the governor, secretary of state, and attorney-general to do so. The State was so districted by these officers after the tenth, eleventh, and twelfth censuses, in 1881, 1891, and 1901.

Representatives and senators are elected by the qualified voters of their respective districts. All the representatives are chosen every second year. The senatorial term is four years, one half the number being chosen every second year. Representatives must be at least twenty-four years old, and must have been qualified voters of the State for two years. Senators must be at least thirty years old, and qualified voters of the State, of three years' standing. Both must have been residents of, and actual tax-payers in, their respective districts for the year next preceding the day of their election. No person can become or remain a representative or senator while at the same time he is a member of Congress, or holds any lucrative office under the Federal, State, or any municipal government (militia officers, justices of the peace, and notaries public excepted). Dueling, sending, accepting, or knowingly carrying a challenge, or

3. Terms of Office and Qualifications.

violating the oath of office of representative or senator, disqualifies a person forever from holding office under the State government.

The General Assembly meets biennially on the first Wednesday after the first day of January. The

4. Sessions. Assembly years are odd-numbered years. Representatives and senators receive as compensation, in addition to traveling expenses to and from the State capital, five dollars a day for the first seventy days of each session, and one dollar a day for the remainder of the session, also thirty dollars each for stationery and postage. But in revising sessions, each member is allowed five dollars a day for one hundred and twenty days, and one dollar a day for the remainder of the session.

The House of Representatives elects one of its own number as speaker or presiding officer.

5. Presiding Officers and Committees. Unless otherwise ordered, the speaker appoints all committees of the House. The lieutenant-governor is *ex officio* president of the Senate: he is not a member, and has no vote except in case of an equal division; he appoints all committees unless otherwise directed by the Senate, and in committee of the whole he has the privilege of debate. The Senate elects a president *pro tempore*, to act as presiding officer in the absence of the lieutenant-governor. The president *pro tempore* acts as governor in case of the death or disability of both the governor and lieutenant-governor; and, in case of his death or disability, the speaker of the House acts as governor.

By means of petitions signed by a certain percentage of the voters, the people may propose a new

Initiative and Referendum. law or constitutional amendment or may order a popular vote on a law made by the General Assembly. Such a measure is then adopted or rejected by the voters at the next election (pp. 353, 354).

LESSON LXXIII. —THE LEGISLATIVE DEPARTMENT, *Continued.*

The lawmaking power of Missouri is restricted by but two authorities,—the Constitution of the United States and the State constitution. Any law violating the provisions of either may be declared unconstitutional by the courts, and therefore null and void (for rights of the States and State prohibitions under the United States Constitution, see pp. 167–187; for State limitations of legislative power, see pp. 294–300).

The principal matters upon which the General Assembly makes laws are the following: the government of counties, cities, townships, and school districts; the organization and government of corporations, such as railroad, insurance, and banking companies; the rights and duties growing out of the domestic relations, as those of parent and child, husband and wife; the property rights of citizens, such as the buying and selling, letting and hiring, of lands and houses, mortgages, the buying and selling of goods, and negotiable paper, such as promissory notes, drafts, and checks; the distribution of property on the death of the owner; interest and usury; the relations of employer and employee; the definition and punishment of crime; the mode of procedure in courts; and the exercise of suffrage.

Most of the laws passed by the General Assembly are general laws; that is, they affect equally all persons and places within the State. The State constitution (see pp. 297–299) forbids the passage of local or special laws upon certain specified subjects and upon any subject, if general laws are applicable.

Special laws can be passed only after thirty days' publication in the locality concerned.

The method of passing laws in the General Assembly is **9. Enactment of Laws.** essentially the same as that employed in the Congress of the United States. The principal rules of procedure are as follows (see pp. 289-294):—

1. A law may originate in the form of a bill in either House, and before final passage must be read on three different days in each House.

2. All bills, on their final passage in each House, must receive the assent of the majority of the members elected, voting by yeas and nays; and the vote of each member must be recorded in the journal.

3. If the original bill is amended in any particular in the other House, it must be returned to that in which it originated, and the amendments must be concurred in by a majority of the members elected, by a recorded yea and nay vote.

4. If passed, the bill goes to the governor; and if signed by him, or if during the session it is not returned with his veto within ten days to the House in which it originated, it becomes a law. If vetoed, it fails to become a law, unless again passed by a two-thirds yea and nay vote in each House. Further, if a bill passes within ten days before the close of the session, it fails to become a law unless signed by the governor within thirty days after the close of the session.

5. No law shall go into force until ninety days after the adjournment of the session at which it was enacted, unless, in case of any emergency expressed in the body of the act, the General Assembly shall otherwise direct by a recorded yea and nay vote of two thirds of the members elected to each House.

As provided in the Constitution of the United States, the

General Assembly of Missouri elects two senators to represent the State in the Senate of the United States. This is done in a joint meeting of the two branches of the General Assembly.

10. Election of United States Senators.

LESSON LXXIV.--THE EXECUTIVE DEPARTMENT.

The officers of the Executive Department of Missouri are the governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public schools, all of whom are elected by the people of the State for a term of four years (see pp. 300-305).

III. Executive Department.

The chief officer of the executive branch is the governor of the State of Missouri. He must be a man at least thirty-five years of age, a citizen of the United States for ten years, and a resident of Missouri for seven years next preceding his election. The salary of the governor is \$5,000 a year. It is his duty to take care that the laws shall be faithfully executed. The governor has the power to veto, under certain restrictions and conditions already described, any act of the General Assembly; to convene the General Assembly in extra session; to grant reprieves, commutations, and pardons after conviction for all offenses except treason and cases of impeachment; and to appoint, with the advice and consent of the Senate, many important administrative officers. The governor is commander-in-chief of all the military forces of the State, and is required to communicate by message to the General Assembly at each session information regarding the condition of the State, and to recommend such measures as he shall deem expedient.

1. Governor.

The lieutenant-governor must possess the qualifications

2. Lieutenant-Governor. for governor. He presides over the Senate. In case of the death, resignation, incapacity, or removal from office, of the governor, he becomes the governor.

The secretary of state and the other executive officers

3. Secretary of State. mentioned above, except the governor and lieutenant-governor, must be men at least twenty-five years old, citizens of the United States, and residents of Missouri for five years next preceding the election. The secretary of state keeps a record of all the official acts of the governor; is custodian of the great seal of the State, and attests the signature of the governor to official papers; preserves State papers, and lays copies thereof before the General Assembly when so requested; receives the returns of State and congressional elections; is custodian of and distributes the laws and journals, paper and stationery; and issues certificates of existence to incorporated companies.

The State auditor is the general accountant of the State.

4. State Auditor. He keeps all accounts relating to the State's revenue, debt, and fiscal affairs; passes upon all accounts against the State; prepares, and presents to the General Assembly, a detailed statement of receipts and expenditures and of the condition of the public debt; submits estimates and suggestions for the information of the General Assembly; draws warrants on the treasury; and directs prosecutions for official delinquencies in relation to the assessment and collection of the revenue.

The State treasurer receives the State's moneys, and

5. State Treasurer. pays them out on the warrant of the auditor; makes monthly reports to the governor of the condition of the treasury; and submits to each General Assembly a detailed statement of the operations of his department for the two preceding fiscal years.

The attorney-general has charge of the legal affairs of the State. He conducts all lawsuits with regard to questions in which the State has an interest, and gives legal advice to the governor and heads of departments and the General Assembly.

6. Attorney-General.

The superintendent of public schools has charge of the State educational affairs. (See Lesson LXXXI.)

7. Superintendent of Public Schools.

There are other executive officers, not mentioned in the constitution, but filling offices created by the General Assembly. Among these are three railroad and warehouse commissioners, elected by the people for terms of six years, one commissioner being elected every two years; the adjutant-general, appointed by the governor; the warden of the penitentiary; the superintendent of insurance; the commissioner of the Bureau of Labor Statistics; the State geologist; and the game and fish commissioner, appointed by the governor. The names of these officers indicate their respective duties.

8. Other Officers.

LESSON LXXV.—THE JUDICIAL DEPARTMENT.

The judicial power of Missouri is vested in the courts of the State. They determine the constitutionality of the laws enacted by the General Assembly, and possess jurisdiction in all cases not reserved by the United States Constitution to the Federal courts. They consist of a Supreme Court, the courts of appeals, circuit courts, criminal courts, probate courts, county courts, and municipal or corporation courts.

IV. Judicial Department.

The Supreme Court consists of seven judges, elected by the people for ten years. Three are elected in 1902, 1912, etc.; and one each in 1904, 1906, 1908, 1910, etc. Except in a few cases the Supreme

1. Supreme Court.

Court has appellate jurisdiction only; but it exercises a superintending control over all inferior courts. In constitutional questions, and in cases of felony and those involving titles to land, it alone has appellate jurisdiction. Under certain circumstances it can rehear cases transferred from the courts of appeals (see p. 349, Sec. 6). The court is divided into two divisions. Division No. 1 consists of four judges, and has jurisdiction in civil cases; Division No. 2 consists of three judges, and has jurisdiction in criminal cases. The court sits at the State capital, and holds two terms annually. It elects its chief justice.

There are three of these courts, — the St. Louis Court of Appeals, the Kansas City Court of Appeals, and the Springfield Court of Appeals.

2. Courts of Appeals.

The courts each consist of three judges, elected for twelve years. Two judges form a quorum. The courts have jurisdiction in cases appealed from the inferior tribunals in their respective districts. They sit in St. Louis, Kansas City, and Springfield, respectively, and each holds a spring and a fall term annually.

The State is divided into thirty-six judicial circuits, each composed of one county or of several contiguous counties. For each circuit there is a circuit court, consisting of one or more circuit judges, as the business may require, who are elected by the people in the respective circuits for terms of six years. The jurisdiction of these courts is original, concurrent, or appellate, in all cases not otherwise provided for by law, and extends over all inferior courts within the circuit. The circuit courts hold at least two terms annually in each county of their respective circuits.

3. Circuit Courts.

The jurisdiction of all other courts is confined within single counties, and the consideration of these courts is therefore more appropriately taken up in Lesson LXXVIII.

4. Inferior Courts.

LESSON LXXVI. — PERSONAL RIGHTS.

A guaranty of the personal rights of citizens forms Article II. of the Constitution of Missouri (p. 277), and is termed a *bill of rights*. Its provisions are almost identical with those of the Amendments to the United States Constitution, Paragraphs (86) to (94), and Paragraphs (45) and (46) of that instrument. The rights thus secured are enjoyed by all, without distinction of sex, age, or color. The right of suffrage is limited.

V. Personal Rights.

1. Bill of Rights.

The United States Constitution declares that "all citizens 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." It thus appears that all persons — men, women, and children — born or naturalized in the United States are citizens, but that it is left to Missouri to determine who shall exercise the right of suffrage or the right of voting in all cases.

2. Citizenship.

The State constitution (pp. 314–316) gives the right of suffrage to any citizen resident of the State, twenty-one years of age and of the male sex, provided he is not an officer, soldier, or marine of the regular army or navy of the United States. Idiots, lunatics, paupers, and prisoners are denied the right to vote, and the General Assembly *may* deny the right to persons convicted of infamous crimes. The right of suffrage is conferred on persons of foreign birth, otherwise qualified, who have declared their intention to become citizens of the United States, not less than one year nor more than five years before the vote is offered.

3. Suffrage.

(a) Qualifications.

To be entitled to vote, a citizen must have resided (1)

in the State for one year, and (2) in the county, city, or town for at least sixty days immediately preceding the election.

(b) *Residence.*

In cities having more than twenty-five thousand inhabitants, only those persons can vote who have

(c) *Registration.*

previously registered their names and places of residence with the proper election officers, in the election district or precinct in which they reside, on one of the days appointed for such registration.

LESSON LXXVII. — ELECTIONS.

In addition to the division into congressional, senatorial, representative, and judicial districts, Missouri is divided into 114 counties and the city of St. Louis.

VI. Elections.
1. Subdivisions. The counties are divided into townships, which may be subdivided into election districts or precincts. The officers of the Executive Department (p. 251), and the judges of the Supreme Court, are elected by the qualified voters of the whole State. The representatives are elected by the voters of their respective districts.

The regular elections are held biennially on the first Tuesday after the first Monday of November.

2. Time and Place. The election years are even-numbered years. The places where the votes are taken are called "polls." Each of these is in charge of six judges of election, appointed or elected from and representing equally the two principal political parties. The polls are open from 7 A.M. to 6 P.M., or, if the sun sets after six, until sunset; except in cities of over 25,000 inhabitants, where they are open from 6 A.M. to 7 P.M.

The method of voting usually called the Australian sys-

tem has been adopted to insure the secrecy of each person's vote, and thus to prevent bribery and intimidation and to secure peace and good order at the polls. *3. Manner of Voting.* All votes are prepared upon official ballots printed at public expense, and distributed to the judges of election. Within the inclosure of each polling place is a number of booths or compartments to insure the privacy of as many voters while preparing their ballots. No one is allowed within the inclosure except the officials of the election and the voters occupying the booths. Each voter, upon entering the inclosure of the polling place, receives from the distributing judges one set of ballots, upon the back of which the two judges indorse their own names or initials. There is a separate ballot for the candidates of each party. The voter, retiring to a booth, selects the ballot which he wishes to vote, and on it marks off any names he does not wish to vote for, writing below them the names of the respective candidates of his choice ; he then folds all the ballots separately. In passing out of the inclosure, the voter hands his selected ballot to one receiving judge, who numbers the voted ballots consecutively and deposits them in the ballot-box (the rejected ballots are counted and deposited in another box by the other receiving judge). At the same time, the names of the voters correspondingly numbered are recorded by the election clerks in the poll booths. If the voter makes oath that he is unable to prepare his ballot, the judges may assist him.

Two ballot-boxes are used alternately for the reception of ballots at each polling place, the boxes *4. Counting the Votes.* being emptied of ballots and changed each hour. It is the duty of two counting judges to immediately count and string the ballots thus voted and record the results while the election is in progress, and to announce the final result publicly at the close of the polls. The ballots, strung and sealed, and one set of poll books, are then sent

to the county clerk, who publicly verifies the additions from the poll book, and issues certificates of election to the successful candidates, or, in the case of State officers, members of Congress, State senators and representatives, and judges of the courts of appeals and circuit courts, transmits a certified abstract of the returns to the secretary of state.

CHAPTER XXIII.

LESSON LXXVIII.—COUNTY, TOWNSHIP, AND SCHOOL DISTRICT.

THE county stands highest, and is the most important of the incorporated subdivisions of the State. It may be considered as the political unit of the State, since it is the only corporate subdivision (except St. Louis) that is invariably represented in the General Assembly; since the other subdivisions, though distinct corporations, are parts of the counties in which they are situated; and since the State revenue is collected by the county officials.

The county possesses a local government, and exercises legislative, executive, and judicial powers, though these functions do not constitute separate and distinct branches. The county court possesses the most extensive authority in the county government. Its powers extend into each of these branches.

The county court consists of three judges,—the presiding judge, elected every four years by the county at large, and the others, every two years, one from each of two districts into which the county is divided. This court meets quarterly at the county seat, though in counties containing seventy-five thousand or more inhabitants and where county courts are held at more than one place, the terms shall be held monthly. It has legislative power in matters pertaining to the maintenance and

*Powers of
Government.*

County Court.

opening of highways, levying of taxes, and providing for the care of paupers. It has charge of all county property and finances, including the permanent county school fund, and a superintending control over all county business.

Other county officers elected for four years are: a judge of the probate court, who administers the law with regard to the property of deceased persons, and has the appointment and removal of guardians and administrators of estates; a sheriff, who is charged with the execution of the decrees of the courts; a county clerk, who has charge of all the records and all papers belonging to the county court, and exercises various executive functions; a circuit clerk, who has similar duties in connection with the circuit court, and who in some of the less populous counties keeps the records of deeds, mortgages, etc.; a recorder of deeds in most of the counties; a coroner, who, with a jury of six persons, inquires into the cause of death of those who die by violence or casualty; an assessor, to assess the value of taxable property; a collector, to collect the taxes; a treasurer, to receive and care for the county funds; a surveyor; a public administrator; two or more justices of the peace in each township; and a county superintendent of schools, who examines applicants for teachers' certificates, organizes the county teachers' association, reports the educational statistics annually to the State superintendent, and has general supervision over the schools of the county.

County officers elected every two years are: a prosecuting attorney, who prosecutes or defends all cases in which the county or State is interested, and is the legal adviser of the grand jury and county officers; and at least one constable for each township, whose duty it is to serve warrants, writs of attachment, subpoenas, or other legal processes.

The county superintendent of schools is elected at the school district meetings in April; the other county officers at the regular elections in November.

The counties are divided by the county court into municipal townships, which may or may not be distinct organizations, and are not to be confounded with the congressional townships established by the United States land surveys. The latter are simply territorial subdivisions, and have no political significance whatever. Townships without organization are simply political subdivisions established for convenience of administration, with boundaries which may be changed at the discretion of the county court. Any county may, however, by a majority vote, adopt "township organization," whereby its townships may become incorporate bodies, with powers of local government and officers of their own. The county court can change the boundaries of such townships only when authorized to do so by a two-thirds majority of the voters of the townships concerned.

In organized townships, officers are elected for two years on the last Tuesday of March, and are: a township trustee, who is also treasurer and member of the board of directors; a township collector; a township clerk, who is also assessor; one constable; two members of the township board of directors; and two or more justices of the peace. The board of directors meets at least three times a year, at the office of the clerk, and has power to audit accounts, to approve or disapprove claims against the township, to divide the township into convenient road districts, and to levy taxes for township purposes.

School districts are the simplest political corporations of the State. They must contain at least twenty pupils of school age (six to twenty years), and must maintain separate schools for white and colored pupils for at least eight months annually. The voters of the district, in annual school meeting on the first Tuesday of April, determine the length (over eight months) of

the school term, and amount of school levy in excess of 40 cents on \$100 ; vote funds for the school library ; decide as to the disposition of school property, location of schoolhouses, and as to changes in boundaries of district ; and ballot for county superintendent, and for one of three school directors, who hold office for three years. The school directors elect a clerk and a president, and exercise government and control over the school property of the district. They make rules for the organization and grading of the schools, employ teachers, visit the schools, enumerate the pupils, and estimate to the county clerk the probable annual cost of maintaining the schools of the district.

LESSON LXXIX. — CITIES AND VILLAGES.

Whenever the population becomes so dense in any locality that the forms of township or county *Classification.* government are inadequate to the needs of the people, that locality may be marked off in definite limits, and incorporated as a city or a village.

The General Assembly has passed general laws providing for the incorporation of cities in four classes, depending on their population, and defining and prescribing the organization and duties of the various branches of city government in each class. The classes are as follows: a city of the first class contains 75,000 or more inhabitants ; a city of the second class contains from 30,000 to 100,000 inhabitants ; a city of the third class contains from 3,000 to 30,000 inhabitants ; a city of the fourth class contains from 500 to 3,000 inhabitants. Cities, therefore, owe their political existence to the General Assembly, which, though it cannot legislate for any one city by name, may at any time

change the general laws affecting one or more classes of cities. With the single exception of the city of St. Louis, the cities and villages of the State remain parts of the counties in which they are situated; are subject to county as well as State taxation; and their citizens may serve as county officers. Unincorporated cities and towns are incorporated by declaration of the county court.

Unlike the other cities of the State, St. Louis receives special mention in the State constitution (see pp. 322-325), and, in its relation to the State government, occupies the position of a county. The General Assembly, however, has the same control over St. Louis as over the other cities of the State, limited, however, by the provisions of the scheme and charter, which is part of the constitution.

The powers and duties of a city government depend upon its class; the extent of the powers, and the intricacy of the organization, increasing from cities of the fourth class to cities of the first class. In general, the powers and duties of a city government are those which are naturally required to meet the wants of a dense population. The more important are to grade, pave, light, and sewer the streets; to regulate the construction of buildings; to maintain police and fire departments; to prevent the spread of contagious diseases and to abate nuisances; to maintain public schools; to provide an abundant supply of pure water; to control the liquor traffic; to care for parks and other public places; to collect taxes; to regulate the public wharves and piers for shipping; to provide and control public hospitals and poorhouses; and, in general, to see that each citizen has the largest liberty of action compatible with the liberty of his neighbor.

For the better performance of its duties, the government of the cities of each class is divided into legislative, executive, and judicial departments.

The lawmaking power is vested in a body composed of representatives from each of the wards into which the city is divided. In cities of the fourth class this body is called the *Board of Aldermen*. In cities of the third class, which must contain at least four wards, it is called the *Council*. In cities of the second class, and in St. Joseph and Kansas City, it is called the *Common Council*. In St. Louis it is called the *Municipal Assembly*. The St. Joseph common council consists of five members elected by the city at large. In Kansas City and St. Louis the lawmaking body is composed of two houses, the members of one being elected by the city at large, and those of the other being elected from the wards. It is the duty of these various legislative bodies to make laws, which are called *ordinances*, for the government of the city. The mayor of each city has the right of veto, but ordinances may be passed over his veto by a two-thirds vote of all the members.

The principal executive officer of a city is the mayor.

Executive. It is his duty to see that the laws and ordinances are enforced. In this work he is assisted by a number of administrative officers, or boards, who are elected or appointed, and who have charge of particular departments.

The principal administrative officers of the various classes of cities are as follows : —

Fourth Class.

Marshal.
Collector.
City assessor.
Street commissioner.
City attorney.
City clerk.
Treasurer.

Third Class.

Marshal.
Police judge.
Attorney.
Treasurer.
Assessor.
Collector.
Street commissioner.
City clerk.

*First and Second Classes.**St. Louis.*

Police judge.	Comptroller.	City counselor.
Attorney.	Register.	District assessors.
Treasurer.	Auditor.	Superintendents of
Comptroller.	Treasurer.	hospitals, work-
Auditor.	Collector.	house, etc.
Board of Public Works.	Recorder of deeds.	Supt. fire alarm and
City clerk.	Inspector of meas-	telegraph.
Engineer.	ures and weights.	Chief of fire depart-
Assessor.	Sheriff.	ment.
Counselor.	Coroner.	Assessor of water
Board of Police Com-	Marshal.	rates.
missioners.	Public administrator.	Police judges.
	President Board of	City attorney.
	Assessors.	Jailer.
	President Board of	Health Commissioner.
	Public Improve-	Supply Commissioner.
	ment.	Comm'rs of streets,
	License collector.	sewers, water, etc.

In cities of the fourth class, the mayor, the marshal, and the collector are elected by the people every two years; the others are appointed by the mayor, with the consent of the board of aldermen, or the board may provide for the election of all except the treasurer. In cities of the third class the officers named are elected by the people, with the exception of the street commissioner (who is appointed by the mayor) and the city clerk (who is elected by the council). In cities of the first and second classes the mayor and the first four or five officers named are elected by the people, and the others hold office by appointment. In St. Louis the mayor and the first fourteen officers named are elected, and the remainder are appointed. Kansas City, like St. Louis, has framed a special charter for itself (p. 321), and its officers differ somewhat from those of other cities of the first class.

The judicial powers of cities of the fourth class are vested in a mayor's court, though the board of aldermen may

provide for the election of a police judge to exercise these functions. In cities of the third class the judicial function is vested in a police court, the police judge being elected every two years. In cities of the second and first classes the judicial power is vested in one or more police courts, the police judges being elected in most cities, but appointed by the mayor in St. Louis. Appeal lies from these courts to the regular circuit and other higher courts. In some of the larger cities the mass of legal business is so great that additional courts are established. Thus common pleas courts may be established in cities of 3,500 inhabitants and over; and in the larger cities there may be criminal courts.

Villages may be incorporated or unincorporated. All unincorporated towns having less than 500 inhabitants are declared by the statutes to be villages. They have no powers or organization, and are governed by the township or county in which they are situated.

A village may be incorporated by the county court upon application of two thirds of its taxable inhabitants. The organization of such incorporated village is similar to that of a city. The lawmaking power is vested in a board of five trustees, unless the village contains more than 2,500 inhabitants, in which case the board consists of nine members. The trustees are elected annually. The executive and judicial powers are vested in a chairman of this board, who is assisted in his executive functions by an assessor, collector, constable or marshal, and treasurer, appointed by the board. The election of both village and city officers is held on the first Tuesday after the first Monday of April.

CHAPTER XXIV.

LESSON LXXX.—TAXATION.

WE have seen (Lesson XXVI.) that the National Government has the power to levy taxes to defray its expenses and to pay the principal and interest on the national debt, and that all taxes are of two kinds, — direct and indirect. But to carry on the work of the state, county, township, city, and village governments, already described, large sums of money are required, which must be raised by taxation. These local taxes are, for the most part, direct taxes levied on property. Property is of two kinds, — real and personal. Real property, or real estate as it is sometimes called, consists of lands and houses. Personal property, or personal estate, includes every species of property except lands and houses.

National.

In order that these taxes may be justly levied, that is, in order that no man shall be compelled to pay a larger share in proportion to the amount of his property than another has to pay, it becomes important that the money value of all property shall be accurately determined. For this purpose, assessors are appointed in counties, townships, cities, and villages. The assessors prepare lists of all the property, together with the owners' names, within their respective localities, and determine at what value the property shall be rated for the purpose of taxation. This process is called *assessing* the prop-

Assessment.

erty. There is provision made by which a tax-payer who thinks his property is valued too high may appeal from the decision of the assessor and have the decision reviewed. In counties, townships, villages, and cities of the third and fourth classes, such appeal is taken to a board of equalization, consisting of the judges of the county court, the surveyor, and the county assessor, or, in counties with township organization, the sheriff in place of the assessor. In cities of the first and second classes these appeals are taken to local boards.

In the assessment of property by local assessors the same basis of valuation may not be adopted in different localities. Taxes which are levied on property in several localities — as state and county taxes and those of the larger cities — would manifestly be unfair if the basis of valuation were not uniform. It is therefore necessary that the local assessments shall be reviewed by some central body, and reduced to a uniform basis. This process is called *equalization*, and is performed for the various townships and smaller municipalities in a county by the county board of equalization above alluded to; for the various wards of the larger cities, by city boards of equalization, consisting of the president of the board of assessors and four discreet, experienced land-owners of the city, appointed by the judges of the circuit court; and for the counties of the State, by the State board of equalization, consisting of the governor, State auditor, State treasurer, secretary of state, and attorney-general. This board meets annually at the State capital.

The amount of tax to be raised for the State and its various subdivisions is determined by the respective legislative bodies, subject to the constitutional limit. The rate of taxation for the State is fixed by the General Assembly; the rate for each county, by

its county court; the rate for each city, by the council or board of aldermen; and the rate for school purposes, by the board of directors. Boards of equalization, both state and county, have been created for equitably adjusting inequalities in the assessed valuation of property.

As the state and school taxes are added to the county tax, and all three to the township tax, in *Collection of Taxes.* counties having township organization, only one collection is necessary. This is made by the township collector, who turns over the school and township tax collections to the township treasurer, and the amount collected for the state and county taxes to the county treasurer, who in turn remits the amount of the state tax to the state treasurer. In counties not having township organization, the county collector collects all state, county, and school taxes. In the larger cities, the state and school taxes are collected by the city collectors.

In order to secure the speedy payment of taxes, it has been found necessary to impose penalties *Penalties.* for their non-payment. Current taxes are due Sept. 1 of each year, and if not paid by Jan. 1 next following, they become delinquent, and interest is charged at the rate of one per cent a month till paid. If taxes on real estate remain delinquent for twelve months, the property is sold by the sheriff under a judgment of the court, and the purchaser is given a perfect title. In the case of personal property, the collector is empowered to seize and sell the same for delinquent taxes.

CHAPTER XXV.

LESSON LXXXI.—EDUCATION.

As ours is a government of the people, by the people, and for the people, it long ago became with us a fixed principle of government that those who govern (namely, the people) should reach the highest degree of intelligence attainable, that they might be able to govern wisely. One principal means of securing intelligence is education; and, as it cannot safely be left to private enterprise to educate the whole mass of the people, common or public schools have been established for this purpose in every State in the Union. But this is not the only reason for their establishment. Idleness is one of the most fruitful sources of crime. And as some degree of education is necessary for the performance of almost any work, the common schools tend to prevent crime by preparing their pupils for the duties of life. It is cheaper, and it is better policy every way, for the State to spend the taxpayers' money for the support of schools than for the support of prisons and reformatories; though, unfortunately, many of the latter must still be maintained.

The work of supporting the common schools falls principally upon the State, but much is also done *National.* by the National Government. The United States Government maintains an academy at West Point for the education of army officers; an academy at Annapolis

for the education of naval officers ; a school for deaf-mutes at Washington, D. C. ; a school in connection with the Signal Service Bureau at Fort Whipple, Va. ; and schools for the education of Indians. Congress in 1867 established a Bureau of Education at Washington, which collects educational information and publishes it for the benefit of educators in all parts of the country. In addition, Congress has frequently made large grants of land and money to the States for the support of schools.

A system of common schools is now established in every State in the Union. In Missouri the counties are divided into school districts, and in *State.* each district, school must be held for at least eight months annually, provided a tax of forty cents on the one hundred dollars assessed valuation of taxable property within the district, together with the moneys received from the public funds, shall be sufficient therefor.

In the district schools throughout the State, as a rule, instruction is given in English in the following elementary branches : spelling, reading, *District Schools.* penmanship, arithmetic, grammar, geography, history of the United States, civil government, and physiology and hygiene with special instruction as to tuberculosis and the effects of alcoholic drinks, stimulants, and narcotics upon the human system. The schools of each district are under the general supervision of three school directors.

Each city or incorporated village is generally organized into a separate school district, under the control of a board of education, composed *City Schools.* of six or more directors, elected for three years. These boards perform duties similar to those of the district directors, but on a larger scale, and appoint a principal or superintendent, who supervises the work of the schools. The city system generally embraces primary or ward schools,

corresponding to the common district schools; and high schools, in which higher or academic branches are taught, such as the rudiments of higher mathematics, the natural sciences, and ancient and modern languages.

As good teachers are a prime requisite in making good schools, the State is divided into five districts, in each of which there is established a normal school for the training of white teachers. These five normal schools are located at Kirksville, Warrensburg, Cape Girardeau, Springfield, and Maryville. In the second district, at Jefferson City, there is also established a normal school, known as Lincoln Institute, for the training of colored teachers. Each of these schools is under the general control and management of a board of regents, consisting of the State superintendent of schools and six members appointed by the governor, with the advice and consent of the Senate. These boards make all needful rules for the government of the respective normal schools, prepare the course of instruction, and appoint and dismiss all officers and teachers.

In addition to the normal schools, there are many summer schools which give instruction to teachers. Work in normal schools and in accredited summer schools may be accepted in lieu of examinations for teachers' certificates. In each county the county superintendent of schools examines teachers at stated times, and issues certificates to qualified teachers. No one can teach in the public schools of the State who has not received a certificate. Separate teachers' institutes for the training and licensing of colored teachers are held at such times and places as the State Board of Education may deem necessary.

The county text-book commission consists of the superintendent and two teachers — one appointed by the county

court and the other by the State Board of Education. This commission selects the text-books which may be used in the county, and makes contracts for the same for a period of five years.

The State University is established at Columbia, Boone County, under the control of a board of nine curators, appointed for six years by the *State University* governor, with the advice and consent of the Senate. All residents of the State between the ages of sixteen and twenty-five years, who possess the requisite scholastic and moral qualifications, are admitted to any department of the State University upon the payment of a nominal incidental fee.

An Agricultural College at Columbia, and a School of Mines at Rolla, are made distinct departments of the State University. The course *Agricultural College and School of Mines* in these colleges includes classical studies, but more particular attention is devoted to their respective sciences.

The general supervision and control of the educational affairs of the State is in the hands of the superintendent of public schools as president of the State Board of Education, the *Superintendent of Public Schools* other members of which are the governor, secretary of state, and attorney-general. His principal duties are to apportion the public-school fund among the different counties of the State; to interpret school law, give instructions for carrying the law into effect, and advice in cases of dispute; to examine applicants and grant State certificates; and to take general supervision of the educational interests of the State. He makes a report to the General Assembly at each session (and to the governor when the General Assembly is not in session), giving all required statistical information, and making such suggestions as he may think proper.

The public schools are supported by money derived from three sources: (1) the income from permanent state, county, and township school funds; (2) an appropriation from the State treasury; and (3) local taxes. The permanent funds were derived largely from the sale of the public lands, the proceeds of the sixteenth section of land in each congressional township being set apart for this purpose. These funds are constantly increasing by the addition of the proceeds of unclaimed estates; fines, penalties, and forfeitures; the sale of swamp lands; and money from other sources, as provided by law; and now amount to more than thirteen million dollars.

In conformity with the Constitution, the General Assembly makes a direct appropriation from the State treasury for the support of the public schools, the Constitution providing that not less than twenty-five per cent of the State revenue shall be applied annually to this purpose. The appropriation is usually one third of the State revenue, and, together with the income from the State school fund, is apportioned among the various districts of the State in proportion to their school population. The income from the county school fund is distributed among the various districts of the county, while the income from the township fund is used in the districts within the township. The larger part, however, of the money required for the support of schools, is derived from a local school tax, which is imposed at the discretion of the school directors in each district, to the amount of forty cents on each one hundred dollars' worth of property. A larger local tax requires a direct appeal to the voters of the district. In the larger cities this tax is collected by the city collectors; elsewhere, by the county collector. The total annual expense of the public school system of the State is over eight million dollars.

CHAPTER XXVI.

LESSON LXXXII. — THE MILITIA.

THE national Constitution gives power to Congress to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and declares that the right of the people to keep and bear arms shall not be infringed. The organization and regulation of the militia are left in the power of the States.

By the term "militia" is meant the whole body of male citizens of the State between the ages of eighteen and forty-five years, as distinguished from the regular army of the United States; but the same term is popularly applied to the *National Guard of Missouri*, which consists of a few thousand men who drill regularly and are ready for actual service. Most of these men are organized in infantry regiments, but there are also smaller units of artillery, etc. The national guard conforms to the organization and regulations of the United States army.

The President of the United States has the power to decide when an exigency exists for calling forth the militia. He makes a requisition upon the governor of the State; and when the militia is so called forth, it becomes a national militia.

The governor is the commander-in-chief of the militia of the State, and has power to call it out to suppress insurrection or rebellion within the State. In case of emergency it is the duty of the senior commander of the local militia to

call out his command upon the written request of the mayor or chief officer of any city or town, or the sheriff of any county.

The organized militia forms one division, commanded by a major-general and divided into brigades, regiments, bat-

Organization. talions, companies, etc. The governor appoints the adjutant-general and his other staff officers, and, with the advice and consent of the Senate, the major-general and the brigadier-generals. The companies elect their own officers, but the regimental or field officers are elected by the officers of the various companies forming the regiment.

The officers and men of the militia serve without pay; but the state supplies uniforms, equipments, arms, ammunition, etc.

CONSTITUTION

OF THE

STATE OF MISSOURI.

PREAMBLE.

We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for his goodness, do, for the better government of the State, establish this Constitution.

ARTICLE I.—BOUNDARIES.

Section 1. The boundaries of the State as heretofore established by law, are hereby ratified and confirmed. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the State, so far as the said rivers shall form a common boundary to this State and any other State or States; and the river Mississippi and the navigable rivers and waters leading to the same shall be common highways, and forever free to the citizens of this State and of the United States, without any tax, duty, impost or toll therefor, imposed by this State.

ARTICLE II.—BILL OF RIGHTS.

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

Section 1. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 2. That the people of this State have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their Constitution and form of government whenever they may deem it necessary to their safety and happiness; *Provided*, such change be not repugnant to the Constitution of the United States.

Sec. 3. That Missouri is a free and independent State, subject only to the Constitution of the United States; and as the preservation of the States and the maintenance of their governments are necessary to an indestructible Union, and were intended to co-exist with it, the Legislature is not authorized to adopt, nor will the people of this State ever assent to, any amendment or change of the Constitution of the United States which may in anywise impair the right of local self-government belonging to the people of this State.

Sec. 4. That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty and the enjoyment of the gains of their own industry; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails of its chief design.

Sec. 5. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no person can, on account of his religious opinions, be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying, or from serving as a juror; that no human authority can control or interfere with the rights of conscience; that no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of this State, or with the rights of others.

Sec. 6. That no person can be compelled to erect, sup-

port, or attend any place or system of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same.

Sec. 7. That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof as such; and that no preference shall be given to, nor any discrimination made against, any church, sect or creed of religion, or any form of religious faith or worship.

Sec. 8. That no religious corporation can be established in this State, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages and cemeteries.

Sec. 9. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sec. 10. The courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice should be administered without sale, denial or delay.

Sec. 11. That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation reduced to writing.

Sec. 12. (As amended, 1900.) No person shall be prosecuted criminally for felony or misdemeanor otherwise than by indictment or information, which shall be concurrent remedies, but this shall not be construed to apply to cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger.

Sec. 13. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sec. 14. That no law shall be passed impairing the freedom of speech; that every person shall be free to say, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

Sec. 15. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the General Assembly.

Sec. 16. That imprisonment for debt shall not be allowed, except for the non-payment of fines and penalties imposed for violation of law.

Sec. 17. That the right of no citizen to keep and bear arms in defense of his home, person and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

Sec. 18. That no person elected or appointed to any office or employment of trust or profit under the laws of this State, or any ordinance of any municipality in this State, shall hold such office without personally devoting his time to the performance of the duties to the same belonging.

Sec. 19. That no person who is now or may hereafter become a collector or receiver of public money, or assistant

or deputy of such collector or receiver, shall be eligible to any office of trust or profit in the State of Missouri, under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all the public money for which he may be accountable.

Sec. 20. That no private property can be taken for private use, with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and as such judicially determined, without regard to any legislative assertion that the use is public.

Sec. 21. That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken.

Sec. 22. In criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.

Sec. 23. That no person shall be compelled to testify against himself in a criminal cause, nor shall any person after being once acquitted by a jury be again, for the same offense, put in jeopardy of life or liberty; but if the jury to which the question of his guilt or innocence is submitted fail

to render a verdict, the court before which the trial is had may, in its discretion, discharge the jury and commit or bail the prisoner for trial at the next term of court, or if the state of business will permit, at the same term; and if judgment be arrested after a verdict of guilty on a defective indictment, or if judgment on a verdict of guilty be reversed for error in law, nothing herein contained shall prevent a new trial of the prisoner on a proper indictment, or according to correct principles of law.

Sec. 24. That all persons shall beailable by sufficient suréties, except for capital offenses, when the proof is evident or the presumption great.

Sec. 25. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sec. 26. That the privilege of the writ of *habeas corpus* shall never be suspended.

Sec. 27. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sec. 28. (*As amended, 1900.*) The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but a jury for the trial of criminal or civil cases, in courts not of record, may consist of less than twelve men, as may be prescribed by law; and that a two-thirds majority of such number prescribed by law concurring may render a verdict in all civil cases; and that in the trial by jury of all civil cases in courts of record three-fourths of the members of the jury concurring may render a verdict. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill: *Provided*, however, that no grand jury shall be convened except upon an order of a judge of a court having the power to try and determine felonies; but when so assembled such grand jury shall have

power to investigate and return indictments for all character and grades of crime.

Sec. 29. That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

Sec. 30. That no person shall be deprived of life, liberty or property without due process of law.

Sec. 31. That there cannot be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

Sec. 32. The enumeration in this Constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE III.—THE DISTRIBUTION OF POWERS.

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

ARTICLE IV.—LEGISLATIVE DEPARTMENT.

Section 1. The legislative power, subject to the limitations herein contained, shall be vested in a Senate and House of Representatives, to be styled “The General Assembly of the State of Missouri.” (For *Amendment of 1908*, see p. 353.)

REPRESENTATION AND APPORTIONMENT.

Sec. 2. The House of Representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the fol-

lowing manner: The ratio of representation shall be ascertained at each apportioning session of the General Assembly, by dividing the whole number of inhabitants of the State, as ascertained by the last decennial census of the United States, by the number two hundred. Each county having one ratio, or less, shall be entitled to one Representative; each county having two and a half times said ratio shall be entitled to two Representatives; each county having four times said ratio shall be entitled to three Representatives; each county having six times such ratio shall be entitled to four Representatives, and so on above that number, giving one additional member for every two and a half additional ratios.

Sec. 3. When any county shall be entitled to more than one Representative, the county court shall cause such county to be subdivided into districts of compact and contiguous territory, corresponding in number to the Representatives to which such county is entitled, and in population as nearly equal as may be, in each of which the qualified voters shall elect one Representative, who shall be a resident of such district: *Provided*, that when any county shall be entitled to more than ten Representatives, the circuit court shall cause such county to be subdivided into districts, so as to give each district not less than two nor more than four Representatives, who shall be residents of such district—the population of the districts to be proportioned to the number of Representatives to be elected therefrom.

Sec. 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-four years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State two years, and an inhabitant of the county or district which he may be chosen to represent one year next before the day of his 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 who shall not have paid a State and county tax within one year next preceding the election.

Sec. 5. The Senate shall consist of thirty-four members, to be chosen by the qualified voters of their respective districts for four years. For the election of Senators the State shall be divided into convenient districts, as nearly equal in population as may be, the same to be ascertained by the last decennial census taken by the United States.

Sec. 6. No person shall be a Senator who shall not have attained the age of thirty years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election—if such district shall have been so long established, but if not, then of the district or districts from which the same shall have been taken—and who shall not have paid a State and county tax within one year next preceding the election. When any county shall be entitled to more than one Senator, the circuit court shall cause such county to be subdivided into districts of compact and contiguous territory, and of population as nearly equal as may be, corresponding in number with the Senators to which such county may be entitled; and in each of these one Senator, who shall be a resident of such district, shall be elected by the qualified voters thereof.

Sec. 7. Senators and Representatives shall be chosen according to the rule of apportionment established in this Constitution, until the next decennial census by the United States shall have been taken, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census, and every ten years thereafter upon the basis of the United States census, or if such census be not taken, or is delayed, then on the basis of a State census—such apportionment to be made at the first session of the General Assembly after each such census: *Provided*, that if at any time, or from any cause, the General Assembly shall fail or refuse to district the State for Senators, as required in this section, it shall be the duty

of the Governor, Secretary of State and Attorney-General, within thirty days after the adjournment of the General Assembly on which such duty devolved, to perform said duty, and to file in the office of the Secretary of State a full statement of the districts formed by them, including the names of the counties embraced in each district, and the numbers thereof—said statement to be signed by them, and attested by the Great Seal of the State, and upon the proclamation of the Governor, the same shall be as binding and effectual as if done by the General Assembly.

Sec. 8. (Of only temporary effect; provided the apportionment of Representatives for 1876-1881.)

Sec. 9. Senatorial and representative districts may be altered, from time to time, as public convenience may require. When any senatorial district shall be composed of two or more counties, they shall be contiguous—such districts to be as compact as may be—and in the formation of the same no county shall be divided.

Sec. 10. The first election of Senators and Representatives, under this Constitution, shall be held at the general election in the year one thousand eight hundred and seventy-six, when the whole number of Representatives, and the Senators from the districts having odd numbers, who shall compose the first class, shall be chosen; and in one thousand eight hundred and seventy-eight, the Senators from the districts having even numbers, who shall compose the second class; and so on at each succeeding general election, half the Senators provided for by this Constitution shall be chosen.

Sec. 11. (Of only temporary effect; provided the senatorial districts for 1876-1881.)

Sec. 12. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office under this State or any municipality thereof; and no member of Congress or person holding any lucrative office under the United States, or this State, or any municipality thereof (militia officers, justices of the peace and no-

taries public excepted), shall be eligible to either house of the General Assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress.

Sec. 13. If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

Sec. 14. Writs of election to fill such vacancies as may occur in either house of the General Assembly shall be issued by the Governor.

Sec. 15. Every Senator and Representative elect, before entering upon the duties of his office, shall take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm] that I will support the Constitution of the United States and of the State of Missouri, and faithfully perform the duties of my office; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing, for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law." The oath shall be administered in the halls of their respective houses, to the members thereof, by some judge of the Supreme court, or the Circuit court or the County court of Cole county, or, after the organization, by the presiding officer of either house, and shall be filed in the office of the Secretary of State. Any member of either house refusing to take said oath or affirmation shall be deemed to have thereby vacated his office, and any member convicted of having violated his oath or affirmation shall be deemed guilty of perjury, and be forever thereafter disqualified from holding any office of trust or profit in this State.

Sec. 16. The members of the General Assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be provided by law, not to exceed five dollars per day for the first seventy days of each session, and after that not to exceed one dollar per day for the remainder of the session, except the first ses-

sion held under this Constitution, and during revising sessions, when they may receive five dollars per day for one hundred and twenty days, and one dollar per day for the remainder of such sessions. In addition to per diem, the members shall be entitled to receive traveling expenses or mileage, for any regular and extra session, not greater than now provided by law; but no member shall be entitled to traveling expenses or mileage for any extra session that may be called within one day after an adjournment of a regular session. Committees of either house, or joint committees of both houses, appointed to examine the institutions of the State, other than those at the seat of government, may receive their actual expenses, necessarily incurred while in the performance of such duty—the items of such expenses to be returned to the chairman of such committee, and by him certified to the State Auditor, before the same, or any part thereof, can be paid. Each member may receive at each regular session an additional sum of thirty dollars, which shall be in full for all stationery used in his official capacity, and all postage, and all other incidental expenses and perquisites; and no allowance or emoluments, for any purpose whatever, shall be made to or received by the members, or any member of either house, or for their use, out of the contingent fund or otherwise, except as herein expressly provided; and no allowance or emolument, for any purpose whatever, shall ever be paid to any officer, agent, servant or employe of either house of the General Assembly, or of any committee thereof, except such per diem as may be provided for by law, not to exceed five dollars.

Sec. 17. Each house shall appoint its own officers; shall be sole judge of the qualifications, election and returns of its own members; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its

presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all members elect, may expel a member; but no member shall be expelled a second time for the same cause.

Sec. 18. A majority of the whole number of members 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. 19. The sessions of each house shall be held with open doors, except in cases which may require secrecy.

Sec. 20. The General Assembly elected in the year one thousand eight hundred and seventy-six shall meet on the first Wednesday after the first day of January, one thousand eight hundred and seventy-seven; and thereafter the General Assembly shall meet in regular session once only in every two years; and such meeting shall be on the first Wednesday after the first day of January next after the elections of the members thereof.

Sec. 21. Every adjournment or recess taken by the General Assembly for more than three days shall have the effect of and be an adjournment *sine die*.

Sec. 22. Every adjournment or recess taken by the General Assembly for three days or less shall be construed as not interrupting the session at which they are had or taken, but as continuing the session for all the purposes mentioned in section sixteen of this article.

Sec. 23. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.

LEGISLATIVE PROCEEDINGS.

Sec. 24. The style of the laws of this State shall be: "*Be it enacted by the General Assembly of the State of Missouri, as follows.*"

Sec. 25. No law shall be passed, except by bill, and no

bill shall be so amended in its passage through either house as to change its original purpose.

Sec. 26. Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house.

Sec. 27. No bill shall be considered for final passage unless the same has been reported upon by a committee and printed for the use of the members.

Sec. 28. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and except bills passed under the third subdivision of section forty-four of this article) shall contain more than one subject, which shall be clearly expressed in its title.

Sec. 29. All amendments adopted by either house to a bill pending and originating in the same shall be incorporated with the bill by engrossment, and the bill, as thus engrossed, shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision of a committee, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

Sec. 30. If a bill passed by either house be returned thereto, amended by the other, the house to which the same is returned shall cause the amendment or amendments so received to be printed under the same supervision as provided in the next preceding section, for the use of the members, before final action on such amendments.

Sec. 31. No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

Sec. 32. No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority of the members elected thereto, taken by yeas and nays, and

the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

Sec. 33. No act shall be revived or re-enacted by mere reference to the title thereof, but the same shall be set forth at length, as if it were an original act.

Sec. 34. No act shall be amended by providing that designated words thereof be stricken out, or that designated words be inserted, or that designated words be stricken out and others inserted in lieu thereof; but the words to be stricken out, or the words to be inserted, or the words to be stricken out and those inserted in lieu thereof, together with the act or section amended, shall be set forth in full as amended.

Sec. 35. When a bill is put upon its final passage in either house, and, failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the house proceeds to any other business.

Sec. 36. No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct—said vote to be taken by yeas and nays, and entered upon the journal.

Sec. 37. No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objections be made, he will sign the same to the end that it

may become a law. The bill shall then be read at length, and if no objections be made, he shall, in presence of the house in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other house, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, or that any particular clause of this article of the Constitution has been violated in its passage, such objection shall be passed upon by the house, and if sustained, the presiding officer shall withhold his signature; but if such objection shall not be sustained, then any five members may embody the same, over their signatures, in a written protest, under oath, against the signing of the bill. Said protest, when offered in the house, shall be noted upon the journal, and the original shall be annexed to the bill, to be considered by the Governor in connection therewith.

Sec. 38. When the bill has been signed, as provided for in the preceding section, it shall be the duty of the Secretary of the Senate, if the bill originated in the Senate, and of the Chief Clerk of the House of Representatives, if the bill originated in the House, to present the same in person, on the same day on which it was signed as aforesaid, to the Governor, and enter the fact upon the journal. Every bill presented to the Governor, and returned within ten days to the house in which the same originated, with the approval of the Governor, shall become a law, unless it be in violation of some provision of this Constitution.

Sec. 39. Every bill presented as aforesaid, but returned without the approval of the Governor, and with his objections thereto, shall stand as reconsidered in the house to

which it is returned. The house shall cause the objections of the Governor to be entered at large upon the journal, and proceed, at its convenience, to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the Governor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal, and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of that house shall certify that fact on the roll, attesting the same by his signature, and send the bill, with the objections of the Governor, to the other house, in which like proceedings shall be had in relation thereto; and if the bill receive a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall, in like manner, certify the fact upon the bill. The bill thus certified shall be deposited in the office of the Secretary of State, as an authentic act, and shall become a law in the same manner and with like effect as if it had received the approval of the Governor.

Sec. 40. Whenever the Governor shall fail to perform his duty, as prescribed in section twelve, Article V of this Constitution, in relation to any bill presented to him for his approval, the General Assembly may, by joint resolution, reciting the fact of such failure and the bill at length, direct the Secretary of State to enroll the same as an authentic act, in the archives of the State, and such enrollment shall have the same effect as an approval by the Governor: *Provided*, that such joint resolution shall not be submitted to the Governor for his approval.

Sec. 41. Within five years after the adoption of this Constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested and promulgated in such manner as the General Assembly shall direct; and a like revision, digest and promulgation shall be made at the expiration of every subsequent period of ten years.

Sec. 42. Each house shall, from time to time, publish a

journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the motion of any two members. Whenever the yeas and nays are demanded, the whole list of members shall be called, and the names of the absentees shall be noted and published in the journal.

LIMITATION OF LEGISLATIVE POWER.

Sec. 43. All revenue collected and moneys received by the State, from any source whatsoever, shall go into the treasury, and the General Assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of regular appropriations made by law. All appropriations of money by the successive General Assemblies shall be made in the following order:

First—For the payment of all interest upon the bonded debt of the State that may become due during the term for which each General Assembly is elected.

Second—For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

Third—For free public school purposes.

Fourth—For the payment of the cost of assessing and collecting the revenue.

Fifth—For the payment of the civil list.

Sixth—For the support of the eleemosynary institutions of the State.

Seventh—For the pay of the General Assembly, and such other purposes, not herein prohibited, as it may deem necessary; but no General Assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item as above enumerated.

Sec. 44. The General Assembly shall have no power to contract or to authorize the contracting of any debt or lia-

bility on behalf of the State, or to issue bonds or other evidences of indebtedness thereof, except in the following cases :

First—In renewal of existing bonds, when they cannot be paid at maturity, out of the sinking fund or other resources.

Second—On the occurring of an unforeseen emergency, or casual deficiency of the revenue when the temporary liability incurred, upon the recommendation of the Governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

Third—On the occurring of any unforeseen emergency or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year, the General Assembly may submit an act providing for the loan, or for the contracting of the liability, and containing a provision for levying a tax sufficient to pay the interest and principal when they become due (the latter in not more than thirteen years from the date of its creation), to the qualified voters of the State, and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, due publication having been made of the provisions of the act for at least three months before such election, the act thus ratified shall be irrevocable until the debt thereby incurred shall be paid, principal and interest.

Sec. 45. (As amended, 1900.) The General Assembly shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State in aid of or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, that the General Assembly shall have the power to appropriate from funds in the State sinking fund, being the proceeds of

the tax authorized under section 14 of article X of the Constitution, to an amount not exceeding one million dollars for the exhibition of the resources, products and industries of the State in the centennial celebration of the Louisiana purchase in the city of St. Louis.

Sec. 46. The General Assembly shall have no power to make any grant or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, that this shall not be so construed as to prevent the grant of aid in a case of public calamity.

Sec. 47. (As amended, 1892.) The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, 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 such corporation, association or company: *Provided*, that this shall not be so construed as to prohibit the General Assembly from providing by law for authorizing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows and minor children of deceased firemen, by such cities, villages or incorporated towns as may have an organized fire department — said fund to be taken from the municipal revenue of such cities, villages or incorporated towns.

Sec. 48. The General Assembly shall have no power to grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

Sec. 49. The General Assembly shall have no power hereafter to subscribe or authorize the subscription of stock on behalf of the State, in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

Sec. 50. The General Assembly shall have no power to release or alienate the lien held by the State upon any railroad, or in anywise change the tenor or meaning or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

Sec. 51. The General Assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein.

Sec. 52. The General Assembly shall have no power to make any appropriation of money, or to issue any bonds or other evidences of indebtedness for the payment or on account or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An act to audit and adjust the war debt of the State," approved March 19, 1874, or any act of a similar nature, until after the claims so audited shall have been presented to and paid by the Government of the United States to the State of Missouri.

Sec. 53. The General Assembly shall not pass any local or special law:

Authorizing the creation, extension or impairing of liens;

Regulating the affairs of counties, cities, townships, wards or school districts;

Changing the names of persons or places;

Changing the venue in civil or criminal cases;

Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges cross-

ing streams which form boundaries between this and any other State ;

Vacating roads, town plats, streets or alleys ;

Relating to cemeteries, grave-yards or public grounds not of the State ;

Authorizing the adoption or legitimation of children ;

Locating or changing county seats ;

Incorporating cities, towns or villages, or changing their charters ;

For the opening and conducting of elections, or fixing or changing the places of voting ;

Granting divorces ;

Erecting new townships, or changing township lines, or the lines of school districts ;

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts ;

Changing the law of descent or succession ;

Regulating the practice or jurisdiction of or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate ;

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables ;

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes ;

Fixing the rate of interest ;

Affecting the estates of minors or persons under disability ;

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury ;

Exempting property from taxation ;

Regulating labor, trade, mining or manufacturing ;

Creating corporations, or amending, renewing, extending or explaining the charter thereof ;

Granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track ;

Declaring any named person of age ;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability ;

Giving effect to informal or invalid wills or deeds ;

Summoning or empaneling grand or petit juries ;

For limitation of civil actions ;

Legalizing the unauthorized or invalid acts of any officer or agent of the State, or of any county or municipality thereof. In all other cases where a general law can be made applicable, no local or special law shall be enacted ; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject ;

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law ; but laws repealing local or special acts may be passed.

Sec. 54. No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the General Assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the General Assembly before such act shall be passed, and the notice shall be recited in the act according to its tenor.

Sec. 55. The General Assembly shall have no power,

when convened in extra session by the Governor, to act upon subjects other than those specially designated in the proclamation by which the session is called, or recommended by special message to its consideration by the Governor after it shall have been convened.

Sec. 56. The General Assembly shall have no power to remove the seat of government of this State from the City of Jefferson.

ARTICLE V.—EXECUTIVE DEPARTMENT.

Section 1. The Executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools, all of whom, except the Lieutenant-Governor, shall reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

Sec. 2. The term of office of the Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be four years from the second Monday of January next after their election, and until their successors are elected and qualified; and the Governor and State Treasurer shall be ineligible to re-election as their own successors. At the general election to be held in the year one thousand eight hundred and seventy-six, and every four years thereafter, all of such officers, except the Superintendent of Public Schools, shall be elected, and the Superintendent of Public Schools shall be elected at the general election in the year one thousand eight hundred and seventy-eight, and every four years thereafter.

Sec. 3. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to the Speaker of the House of Representatives, who shall, immediately after the organization of the House, and before

proceeding to other business, open and publish the same in the presence of a majority of each house of the General Assembly, who shall for that purpose assemble in the hall of the House of Representatives. 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, the General Assembly shall, by joint vote, choose one of such persons for said office.

Sec. 4. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Missouri."

Sec. 5. The Governor shall be at least thirty-five years old, a male, and shall have been a citizen of the United States ten years, and a resident of this State seven years next before his election.

Sec. 6. The Governor shall take care that the laws are distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

Sec. 7. The Governor shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion; but he need not command in person unless directed so to do by a resolution of the General Assembly.

Sec. 8. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such condition and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall, at each session of the General Assembly, communicate to that body each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve, and the reason for granting the same.

Sec. 9. The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary.

Sec. 10. The Governor shall, at the commencement of each session of the General Assembly, and at the close of his term of office, give information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, in such manner as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

Sec. 11. When any office shall become vacant, the Governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed and qualified according to law.

Sec. 12. The Governor shall consider all bills and joint resolutions which, having been passed by both houses of the General Assembly, shall be presented to him. He shall, within ten days after the same shall have been presented to him, return to the house in which they respectively originated all such bills and joint resolutions, with his approval indorsed thereon, or accompanied by his objections: *Provided*, that if the General Assembly shall finally adjourn within ten days after such presentation, the Governor may, within thirty days thereafter, return such bills and resolutions to the office of the Secretary of State, with his approval or reasons for disapproval.

Sec. 13. If any bill presented to the Governor contain

several items of appropriation of money, he may object to one or more items while approving other portions of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the General Assembly be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If it be not in session, then he shall transmit the same within thirty days to the office of Secretary of State, with his approval or reasons for disapproval.

Sec. 14. Every resolution to which the concurrence of the Senate and House of Representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this Constitution, shall be presented to the Governor, and before the same shall take effect shall be proceeded upon in the same manner as in the case of a bill: *Provided*, that no resolution shall have the effect to repeal, extend, alter or amend any law.

Sec. 15. The Lieutenant-Governor shall possess the same qualifications as the Governor, and by virtue of his office shall be President of the Senate. In committee of the whole, he may debate all questions; and when there is an equal division he shall give the casting vote in the Senate, and also in joint vote of both houses.

Sec. 16. In case of death, conviction or impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor.

Sec. 17. The Senate shall choose a President *pro tempore* to preside in cases of the absence or impeachment of the Lieutenant-Governor, or when he shall hold the office of Governor. If there be no Lieutenant-Governor, or the Lieutenant-Governor shall, for any of the causes specified in section sixteen of this article, become incapable of per-

forming the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives, in the same manner and with the same powers and compensation as are prescribed in the case of the office devolving upon the Lieutenant-Governor.

Sec. 18. The Lieutenant-Governor or the President *pro tempore* of the Senate, while presiding in the Senate, shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives.

Sec. 19. No person shall be eligible to the office of Secretary of State, State Auditor, State Treasurer, Attorney-General, or Superintendent of Public Schools, unless he be a male citizen of the United States and at least twenty-five years old, and shall have resided in this State at least five years next before his election.

Sec. 20. The Secretary of State shall be the custodian of the seal of the State, and authenticate therewith all official acts of the Governor, his approval of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri," and the emblems and devices thereof, heretofore prescribed by law, shall not be subject to change.

Sec. 21. The Secretary of State 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.

Sec. 22. An account shall be kept by the officers of the Executive department of all moneys and choses in action disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the Governor under oath. The Governor may at any time require information, in writing, under oath, from the officers of the Executive

department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions; which information, when so required, shall be furnished by such officers and managers; and any officer or manager who at any time shall make a false report shall be guilty of perjury and punished accordingly.

Sec. 23. The Governor shall commission all officers not otherwise provided for by law. All commissions shall run in the name and by the authority of the State of Missouri, be signed by the Governor, sealed with the Great Seal of the State of Missouri, and attested by the Secretary of State.

Sec. 24. The officers named in this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms; and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. All fees that may hereafter be payable by law for any service performed by any officer provided for in this article shall be paid in advance into the State treasury.

Sec. 25. Contested elections of Governor and Lieutenant-Governor shall be decided by a joint vote of both houses of the General Assembly, in such manner as may be provided by law; and contested elections of Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be decided before such tribunal and in such manner as may be provided by law.

ARTICLE VI.—JUDICIAL DEPARTMENT.

Section 1. The judicial power of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme court, the St. Louis court of appeals, circuit courts, criminal courts, probate courts, county courts, and municipal corporation courts.

Sec. 2. The Supreme court, except in cases otherwise

directed by this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under the restrictions and limitations in this Constitution provided.

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

Sec. 4. The judges of the Supreme court shall hold office for the term of ten years. The judge oldest in commission shall be Chief Justice of the court; and, if there be more than one commission of the same date, the court may select the Chief Justice from the judges holding the same.

Sec. 5. The Supreme court shall consist of [five judges, any three of whom shall constitute a quorum] (*see Amendment of 1890*, p. 351); and said judges shall be conservators of the peace throughout the State, and shall be elected by the qualified voters thereof.

Sec. 6. The judges of the Supreme court shall be citizens of the United States, not less than thirty years old, and shall have been citizens of this State for five years next preceding their election or appointment, and shall be learned in the law.

Sec. 7. The full terms of the judges of the Supreme court shall commence on the first day of January next ensuing their election, and those elected to fill any vacancy shall also enter upon the discharge of their duties on the first day of January next ensuing such election. Those appointed shall enter upon the discharge of their duties as soon as qualified.

Sec. 8. The present judges of the Supreme court shall remain in office until the expiration of their respective terms of office. To fill their places as their terms expire, one judge shall be elected at the general election in eighteen hundred and seventy-six, and one every two years thereafter.

Sec. 9. The Supreme court shall be held at the seat of government at such times as may be prescribed by law; and

until otherwise directed by law, the terms of said court shall commence on the third Tuesday in October and April of each year.

Sec. 10. The State shall provide a suitable court-room at the seat of government, in which the Supreme court shall hold its sessions; also a clerk's office, furnished offices for the judges, and the use of the State library.

Sec. 11. If, in any cause pending in the Supreme court or the St. Louis court of appeals, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein based on such division; but the parties to the cause may agree upon some person, learned in the law, to act as special judge in the cause, who shall therein sit with the court, and give decision in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge, the court shall appoint one.

Sec. 12. There is hereby established in the city of St. Louis an appellate court, to be known as the "St. Louis court of appeals," the jurisdiction of which shall be co-extensive with the city of St. Louis and the counties of St. Louis, St. Charles, Lincoln and Warren (*see Amendment of 1884, p. 348, affecting Secs. 12, 13, 27*). Said court shall have power to issue writs of *habeas corpus*, *quo warranto*, *mandamus*, *certiorari*, and other original remedial writs, and to hear and determine the same, and shall have a superintending control over all inferior courts of record in said counties. Appeals shall lie from the decisions of the St. Louis court of appeals to the Supreme court, and writs of error may issue from the supreme court to said court in the following cases only: In all cases where the amount in dispute, exclusive of costs, exceeds the sum of two thousand five hundred dollars; in cases involving the construction of the constitution of the United States or of this State; in cases where the validity of a treaty or statute of or authority exercised under the United States is drawn in question; in cases involving the construction of the revenue laws of this

State, or the title to any office under this State; in cases involving the title to real estate; in cases where a county or other political subdivision of the State or any State officer is a party, and in all cases of felony.

Sec. 13. The St. Louis court of appeals shall consist of three judges, to be elected by the qualified voters of the city of St. Louis, and the counties of St. Louis, St. Charles, Lincoln and Warren, who shall hold their offices for the period of twelve years. They shall be residents of the district composed of said counties, shall possess the same qualifications as judges of the Supreme court, and each shall receive the same compensation as is now, or may be, provided by law for the judges of the circuit court of St. Louis county, and be paid from the same sources: *Provided*, that each of said counties shall pay its proportional part of the same, according to its taxable property.

Sec. 14. The judges of said court shall be conservators of the peace throughout said counties. Any two of said judges shall constitute a quorum. There shall be two terms of said court to be held each year, on the first Monday of March and October, and the first term of said court shall be held on the first Monday in January, 1876.

Sec. 15. The opinions of said court shall be in writing, and shall be filed in the cases in which they shall be respectively made, and become parts of their record; and all laws relating to the practice in the Supreme court shall apply to this court, so far as the same may be applicable.

Sec. 16. At the first general election held in said city and counties after the adoption of this Constitution, three judges of said court shall be elected, who shall determine by lot the duration of their several terms of office, which shall be respectively, four, eight and twelve years, and certify the result to the Secretary of State; and every four years thereafter one judge of said court shall be elected, to hold office for the term of twelve years. The term of office of such judges shall begin on the first Monday in January next ensuing their election. The judge having the oldest license to

practice law in this State shall be the presiding judge of said court.

Sec. 17. Upon the adoption of this Constitution the Governor shall appoint three judges for said court, who shall hold their offices until the first Monday of January, eighteen hundred and seventy-seven, and until their successors shall be duly qualified.

Sec. 18. The clerk of the Supreme court at St. Louis shall be the clerk of the St. Louis court of appeals until the expiration of the term for which he was appointed clerk of the Supreme court, and until his successor shall be duly qualified.

Sec. 19. All cases which may be pending in the Supreme court at St. Louis at the time of the adoption of this Constitution, which by its terms would come within the final appellate jurisdiction of the St. Louis court of appeals, shall be certified and transferred to the St. Louis court of appeals, to be heard and determined by said court.

Sec. 20. All cases coming to said court by appeal or writ of error shall be triable at the expiration of fifteen days from the filing of the transcript in the office of the clerk of said court.

Sec. 21. Upon the adoption of this Constitution, and after the close of the next regular terms of the Supreme court at St. Louis and St. Joseph, as now established by law, the office of the clerk of the Supreme court at St. Louis and St. Joseph shall be vacated, and said clerks shall transmit to the clerk of the Supreme court at Jefferson City all the books, records, documents, transcripts and papers belonging to their respective offices, except those required by section nineteen of this article to be turned over to the St. Louis court of appeals; and said records, documents, transcripts and papers shall become part of the records, documents, transcripts and papers of said Supreme court at Jefferson City, and said court shall hear and determine all the cases thus transferred as other cases.

Sec. 22. The circuit court shall have jurisdiction over

all criminal cases not otherwise provided for by law, exclusive original jurisdiction in all civil cases not otherwise provided for, and such concurrent jurisdiction with and appellate jurisdiction from inferior tribunals and justices of the peace as is or may be provided by law. It shall hold its terms at such times and places in each county as may be by law directed; but at least two terms shall be held every year in each county.

Sec. 23. The circuit court shall exercise a superintending control over criminal courts, probate courts, county courts, municipal corporation courts, justices of the peace, and all inferior tribunals in each county in their respective circuits.

Sec. 24. The State, except as otherwise provided in this Constitution, shall be divided into convenient circuits of contiguous counties, in each of which circuits one circuit judge shall be elected; and such circuits may be changed, enlarged, diminished or abolished from time to time, as public convenience may require; and whenever a circuit shall be abolished, the office of the judge of such circuit shall cease.

Sec. 25. The judges of the circuit courts shall be elected by the qualified voters of each circuit; shall hold their offices for the term of six years, and shall reside in and be conservators of the peace within their respective circuits.

Sec. 26. No person shall be eligible to the office of judge of the circuit court who shall not have attained the age of thirty years, been a citizen of the United States five years, a qualified voter of this State for three years, and who shall not be a resident of the circuit in which he may be elected or appointed.

Sec. 27. The circuit court of St. Louis county shall be composed of five judges, and such additional number as the General Assembly may, from time to time, provide. Each of said judges shall sit separately for the trial of causes and the transaction of business in special term. The judges of said circuit court may sit in general term, for the purpose of making rules of court, and for the transaction of such

other business as may be provided by law, at such time as they may determine; but shall have no power to review any order, decision or proceeding of the court in special term. The St. Louis court of appeals shall have exclusive jurisdiction of all appeals from and writs of error to the circuit courts of St. Charles, Lincoln and Warren counties, and the circuit court of St. Louis county, in special term, and all courts of record having criminal jurisdiction in said counties.

Sec. 28. In any circuit composed of a single county, the General Assembly may, from time to time, provide for one or more additional judges, as the business shall require; each of whom shall separately try cases and perform all other duties imposed upon circuit judges.

Sec. 29. If there be a vacancy in the office of judge of any circuit, or if the judge be sick, absent, or from any cause unable to hold any term or part of term of court, in any county in his circuit, such term or part of term of court may be held by a judge of any other circuit; and at the request of the judge of any circuit, any term of court or part of term in his circuit may be held by the judge of any other circuit; and in all such cases, or in any case where the judge cannot preside, the General Assembly shall make such additional provision for holding court as may be found necessary.

Sec. 30. The election of judges of all courts of record shall be held as is or may be provided by law, and in case of a tie or contested election between the candidates, the same shall be determined as prescribed by law.

Sec. 31. The General Assembly shall have no power to establish criminal courts, except in counties having a population exceeding fifty thousand.

Sec. 32. In case the office of judge of any court of record become vacant by death, resignation, removal, failure to qualify, or otherwise, such vacancy shall be filled in the manner provided by law.

Sec. 33. The judges of the Supreme, appellate and cir-

cuit courts, and of all other courts of record receiving a salary, shall, at stated times, receive such compensation for their services as is or may be prescribed by law; but it shall not be increased or diminished during the period for which they were elected.

Sec. 34. The General Assembly shall establish in every county a probate court, which shall be a court of record, and consist of one judge, who shall be elected. Said court shall have jurisdiction over all matters pertaining to probate business, to granting letters testamentary and of administration, the appointment of guardians and curators of minors and persons of unsound mind, settling the accounts of executors, administrators, curators and guardians, and the sale or leasing of lands by administrators, curators and guardians; and, also, jurisdiction over all matters relating to apprentices: *Provided*, that until the General Assembly shall provide by law for a uniform system of probate courts, the jurisdiction of probate courts heretofore established shall remain as now provided by law.

Sec. 35. Probate courts shall be uniform in their organization, jurisdiction, duties and practice, except that a separate clerk may be provided for, or the judge may be required to act, *ex officio*, as his own clerk.

Sec. 36. In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law.

Sec. 37. In each county there shall be appointed, or elected, as many justices of the peace as the public good may require, whose powers, duties and duration in office shall be regulated by law.

Sec. 38. All writs and process shall run and all prosecutions shall be conducted in the name of the "State of Missouri;" all writs shall be attested by the clerk of the court from which they shall be issued; and all indict-

ments shall conclude, "against the peace and dignity of the State."

Sec. 39. The St. Louis court of appeals and Supreme court shall appoint their own clerks. The clerks of all other courts of record shall be elective, for such terms and in such manner as may be directed by law: *Provided*, that the term of office of no existing clerk of any court of record, not abolished by this Constitution, shall be affected by such law.

Sec. 40. In case there be a tie or a contested election between candidates for clerk of any court of record, the same shall be determined in such manner as may be directed by law.

Sec. 41. In case of the inability of any judge of a court of record to discharge the duties of his office with efficiency, by reason of continued sickness, or physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each house concurring, with the approval of the Governor, to remove such judge from office; but each house shall state on its respective journal the cause for which it shall wish his removal, and give him notice thereof, and he shall have the right to be heard in his defense, in such manner as the General Assembly shall by law direct.

Sec. 42. All courts now existing in this State, not named or provided for in this Constitution, shall continue until the expiration of the terms of office of the several judges; and as such terms expire, the business of said courts shall vest in the court having jurisdiction thereof in the counties where said courts now exist, and all the records and papers shall be transferred to the proper courts.

Sec. 43. The Supreme court of the State shall designate what opinions delivered by the court, or the judges thereof, may be printed at the expense of the State; and the General Assembly shall make no provision for payment by the State for the publication of any case decided by said court, not so designated.

Sec. 44. All judicial decisions in this State shall be free for publication by any person.

ARTICLE VII.—IMPEACHMENTS.

Section 1. The Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Schools and Judges of the Supreme, circuit and criminal courts, and of the St. Louis court of appeals, shall be liable to impeachment for high crimes or misdemeanors, and for misconduct, habits of drunkenness, or oppression in office.

Sec. 2. The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall be sworn to do justice according to law and evidence. When the Governor of the State is on trial, the Chief Justice of the Supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators present. But judgment in such cases shall not extend any further than removal from office, and disqualification to hold any office of honor, trust or profit under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

ARTICLE VIII.—SUFFRAGE AND ELECTIONS.

Section 1. The general election shall be held biennially on the Tuesday next following the first Monday in November. The first general election under this Constitution shall be held on that day in the year one thousand eight hundred and seventy-six; but the General Assembly may, by law, fix a different day—two-thirds of all the members of each house consenting thereto.

Sec. 2. Every male citizen of the United States, and every male person of foreign birth, who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-

one year, possessing the following qualifications, shall be entitled to vote at all elections by the people :

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

Second—He shall have resided in the county, city or town where he shall offer to vote, at least sixty days immediately preceding the election.

Sec. 3. All elections by the people shall be by ballot ; every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter shall have voted, unless required to do so as witnesses in a judicial proceeding : *Provided*, that in all cases of contested elections the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations as may be prescribed by law.

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

Sec. 5. The General Assembly shall provide, by law, for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

Sec. 6. All elections, by persons in a representative capacity, shall be *viva voce*.

Sec. 7. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept

in a poor-house or other asylum at public expense, nor while confined in public prison.

Sec. 8. No person, while kept at any poor-house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

Sec. 9. The trial and determination of contested elections of all public officers, whether State, judicial, municipal or local, except Governor and Lieutenant-Governor, shall be by the courts of law, or by one or more of the judges thereof. The General Assembly shall, by general law, designate the court or judge by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law, assigning jurisdiction or regulating its exercise, shall apply to any contest arising out of any election held before said law shall take effect.

Sec. 10. The General Assembly may enact laws excluding from the right of voting all persons convicted of felony or other infamous crime, or misdemeanors connected with the exercise of the right of suffrage.

Sec. 11. No officer, soldier or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this State.

Sec. 12. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

ARTICLE IX.—COUNTIES, CITIES AND TOWNS.

Section 1. The several counties of this State, as they now exist, are hereby recognized as legal subdivisions of the State.

Sec. 2. The General Assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law; and no county seat shall be removed unless two-thirds of the quali-

fied voters of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in five years. All additions to a town which is a county seat shall be included, considered and regarded as part of the county seat.

Sec. 3. The General Assembly shall have no power to establish any new county with a territory of less than four hundred and ten square miles, nor to reduce any county, now established, to a less area or less population than required for a ratio of representation existing at the time; but when a new county is formed, having a population less than a ratio of representation, it shall be attached for representative purposes to the county from which the greatest amount of territory is taken until such ratio shall be obtained. No county shall be divided or have any portion stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the qualified voters of the county or counties thus affected, voting on the question, shall vote therefor; nor shall any new county be established, any line of which shall run within ten miles of the then existing county seat of any county. In all cases of the establishment of any new county, the new county shall be held for and obliged to pay its ratable proportion of all the liabilities then existing of the county or counties from which said new county shall be formed.

Sec. 4. No part of the territory of any county shall be stricken off and added to an adjoining county, without submitting the question to the qualified voters of the counties immediately interested, nor unless a majority of all the qualified voters of the counties thus affected, voting on the question, shall vote therefor. When any part of a county is stricken off and attached to another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it is taken.

Sec. 5. When any new county, formed from contiguous territory taken from older counties, or when any county to

which territory shall be added taken from an adjoining county, shall fail to pay the proportion of indebtedness of such territory to the county or counties from which it is taken, then it may be lawful for any county from which such territory has been taken, to levy and collect, by taxation, the due proportion of indebtedness of such territory, in the same manner as if the territory had not been stricken off.

Sec. 6. No county, township, city or other municipality shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation or donation or loan its credit to or in aid of any such corporation or association, or to or in aid of any college or institution of learning, or other institution, whether created for or to be controlled by the State or others. All authority heretofore conferred for any of the purposes aforesaid by the General Assembly, or by the charter of any corporation, is hereby repealed: *Provided, however,* that nothing in this Constitution contained shall affect the right of any such municipality to make such subscription, where the same has been authorized under existing laws by a vote of the people of such municipality prior to its adoption, or to prevent the issue of renewal bonds or the use of such other means as are or may be prescribed by law, for the liquidation or payment of such subscription, or of any existing indebtedness.

Sec. 7. The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to and be governed by the general laws relating to such corporations.

Sec. 8. The General Assembly may provide, by general

law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting upon that proposition, at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of county affairs, and the assessment and collection of the revenue by county officers, in conflict with such general law for township organization, may be dispensed with, and the business of said county, and the local concerns of the several townships therein, may be transacted in such manner as may be prescribed by law: *Provided*, that the justices of the county court in such case shall not exceed three in number.

Sec. 9. In any county which shall have adopted township organization, the question of continuing the same may be submitted to a vote of the electors of such county at a general election, in the manner that shall be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, it shall cease in said county, and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county.

Sec. 10. (As amended, 1906.) There shall be elected by the qualified voters in each county, on the first Tuesday next following the first Monday in November, A.D. 1908, and thereafter every four years, a sheriff and coroner. They shall serve for four years, and until their successors be duly elected and qualified, unless sooner removed for malfeasance in office. Before entering on the duties of their office, they shall give security in the amount and in such manner as shall be prescribed by law. Whenever a county shall be hereafter established, the Governor shall appoint a sheriff and coroner therein, who shall continue in office until the next succeeding general election, and until their successors shall be duly elected and qualified.

Sec. 11. Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall be filled by the county

court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same, and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise, the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of coroner, the same shall be filled for the remainder of the term by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

Sec. 12. The General Assembly shall, by a law uniform in its operation, provide for and regulate the fees of all county officers, and for this purpose may classify the counties by population.

Sec. 13. The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him, actually paid to his deputies or assistants, stating the same in detail and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury.

Sec. 14. Except as otherwise directed by this Constitution, the General Assembly shall provide for the election or appointment of such other county, township and municipal officers as public convenience may require; and their terms of office and duties shall be prescribed by law; but no term of office shall exceed four years.

Sec. 15. In all counties having a city therein containing over one hundred thousand inhabitants, the city and county government thereof may be consolidated in such manner as may be provided by law.

Sec. 16. Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board, or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State.

Sec. 17. It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting

any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

Sec. 18. In cities or counties having more than two hundred thousand inhabitants, no person shall, at the same time, be a State officer and an officer of any county, city or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia.

Sec. 19. The corporate authorities of any county, city or other municipal subdivision of this State having more than two hundred thousand inhabitants, which has already exceeded the limit of indebtedness prescribed in section twelve of article X of this Constitution, may, in anticipation of the customary annual revenue thereof, appropriate during any fiscal year, toward the general governmental expenses thereof, a sum not exceeding seven-eighths of the entire revenue applicable to general governmental purposes (exclusive of the payment of the bonded debt of such county, city or municipality) that was actually raised by taxation alone during the preceding fiscal year; but until such excess of indebtedness cease, no further bonded debt shall be incurred, except for the renewal of other bonds.

ST. LOUIS.

Sec. 20. The city of St. Louis may extend its limits so as to embrace the parks now without its boundaries, and other convenient and contiguous territory, and frame a charter for the government of the city thus enlarged, upon the following conditions, that is to say: The council of the city and county court of the county of St. Louis shall, at the request of the mayor of the city of St. Louis, meet in joint session and order an election, to be held as provided for

general elections by the qualified voters of the city and county, of a board of thirteen freeholders of such city or county, whose duty shall be to propose a scheme for the enlargement and definition of the boundaries of the city, the reorganization of the government of the county, the adjustment of the relations between the city thus enlarged and the residue of St. Louis county, and the government of the city thus enlarged, by a charter in harmony with and subject to the Constitution and laws of Missouri, which shall, among other things, provide for a chief executive and two houses of legislation, one of which shall be elected by general ticket; which scheme and charter shall be signed in duplicate by said board, or a majority of them, and one of them returned to the mayor of the city and the other to the presiding justice of the county court within ninety days after the election of such board. Within thirty days thereafter the city council and county court shall submit such scheme to the qualified voters of the whole county, and such charter to the qualified voters of the city so enlarged, at an election to be held not less than twenty nor more than thirty days after the order therefor; and if a majority of such qualified voters, voting at such election, shall ratify such scheme and charter, then such scheme shall become the organic law of the county and city, and such charter the organic law of the city, and at the end of sixty days thereafter shall take the place of and supersede the charter of St. Louis, and all amendments thereof, and all special laws relating to St. Louis county inconsistent with such scheme.

Sec. 21. A copy of such scheme and charter, with a certificate thereto appended, signed by the mayor and authenticated by the seal of the city, and also signed by the presiding justice of the county court and authenticated by the seal of the county, setting forth the submission of such scheme and charter to the qualified voters of such county and city, and its ratification by them, shall be made in duplicate, one of which shall be deposited in the office of the Secretary of State, and the other, after being recorded in

the office of the recorder of deeds of St. Louis county, shall be deposited among the archives of the city, and thereafter all courts shall take judicial notice thereof.

Sec. 22. (As amended, 1902.) The charter so ratified may be amended by proposals therefor submitted by the law-making authorities of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals and accepted by three-fifths of the qualified voters voting for or against each of said amendments so submitted; and the law-making authorities of such city may order an election by the qualified voters of the city of a board of thirteen freeholders of such city to prepare a new charter for such city, which said charter shall be in harmony with and subject to the Constitution and laws of the State, and shall provide, among other things, for a chief executive and at least one house of legislation to be elected by general ticket. Said revised charter shall be submitted to the qualified voters of such city at an election to be held not less than twenty nor more than thirty days after the order therefor, and if a majority of such qualified voters voting at such election ratify such charter, then said charter shall become the organic law of such city, and sixty days thereafter shall take effect and supersede the charter of such city and all special laws inconsistent therewith.

Sec. 23. Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. In the adjustment of the relations between city and county, the city shall take upon itself the entire park tax; and in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, it shall assume the whole of the existing county debt, and thereafter the city and county of St. Louis shall be independent of each other. The city shall be exempted from all county taxation. The

judges of the county court shall be elected by the qualified voters outside of the city. The city, as enlarged, shall be entitled to the same representation in the General Assembly, collect the State revenue and perform all other functions in relation to the State in the same manner as if it were a county as in this Constitution defined; and the residue of the county shall remain a legal county of the State of Missouri, under the name of the county of St. Louis. Until the next apportionment for Senators and Representatives in the General Assembly, the city shall have six Senators and fifteen Representatives, and the county one Senator and two Representatives, the same being the number of Senators and Representatives to which the county of St. Louis, as now organized, is entitled under sections eight and eleven of article IV of this Constitution.

Sec. 24. The county and city of St. Louis, as now existing, shall continue to constitute the Eighth judicial circuit, and the jurisdiction of all courts of record, except the county court, shall continue until otherwise provided by law.

Sec. 25. Notwithstanding the provisions of this article, the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this State.

ARTICLE X.—REVENUE AND TAXATION.

Section 1. The taxing power may be exercised by the General Assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes.

Sec. 2. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the General Assembly.

Sec. 3. Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

Sec. 4. All property subject to taxation shall be taxed in proportion to its value.

Sec. 5. All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises and their capital stock.

Sec. 6. The property, real and personal, of the State, counties and other municipal corporations and cemeteries shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also such property, real or personal, as may be used exclusively for agricultural or horticultural societies: *Provided*, that such exemptions shall be only by general law.

Sec. 7. All laws exempting property from taxation, other than the property above enumerated, shall be void.

Sec. 8. The State tax on property, exclusive of the tax necessary to pay the bonded debt of the State, shall not exceed twenty cents on the hundred dollars valuation; and whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents.

Sec. 9. No county, city, town or other municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

Sec. 10. The General Assembly shall not impose taxes upon counties, cities, towns or other municipal corporations, or upon the inhabitants or property thereof, for county, city,

town or other municipal purposes ; but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

Sec. 11. (As amended, 1902.) Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation ; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for State and county purposes. For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars valuation ; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation ; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation ; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. For city and town purposes, the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the hundred dollars valuation ; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation ; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation ; and in towns having one thousand inhabitants or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation. For school purposes in districts composed of cities which have one hundred thousand inhabitants or more, the annual rate on property shall not exceed sixty cents on the hundred dollars valuation, and in other districts forty cents on the hundred dollars valuation : *Provided*, the aforesaid annual rates for school purposes may be increased, in districts formed of cities and towns, to an amount not to exceed one dollar on

the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are tax-payers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city or school district, voting at such election, shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State, or of the United States; said restrictions, as to rates, shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing or bonds which may be issued in renewal of such indebtedness: *Provided*, that the city of St. Louis may levy for municipal purposes, in addition to the municipal rate of taxation above provided, a rate not exceeding the rate which would be allowed for county purposes if said city were part of a county.

Sec. 12. (As amended, 1900, 1902, 1906.) No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State

and county purposes, previous to the incurring of such indebtedness: *Provided*, that with such assent any county may be allowed to become indebted to a larger amount for the erection of a court-house or jail, or for the grading, construction, paving or maintaining of paved, gravelled, macadamized or rock roads and necessary bridges and culverts therein; *and provided further*, that any county, city, town, township, school district, or other political corporation or subdivision of the State, incurring any indebtedness requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof within twenty years from the time of contracting the same; *and provided further*, that the corporate authorities of the city of St. Louis are hereby authorized to issue interest bearing bonds of said city in the amount of five million dollars, at a rate of interest not to exceed four per cent per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the corporation organized for the celebration of the Louisiana purchase centennial in said city, to be used by said corporation for said celebration, in holding a world's fair or exposition in said city. And said corporate authorities of St. Louis shall be repaid as large a proportionate amount of the aid given by them as shall be repaid to the stockholders of said corporation on the sum subscribed and paid by them, and any surplus remaining from the assets of said corporation after said stockholders and said city shall have been paid in full, shall be divided between said stockholders and said city in proportion to the aggregate amount of said stock so paid in and the amount so loaned by said city; and any amount so received by said city from said corporation shall be paid into the sinking fund of said city for the redemption of its outstanding bonds: *Provided*, that if at the election for the adoption of this amendment to the

Constitution a majority of the votes cast within the limits of said city of St. Louis, voting for and against this amendment, shall be against its adoption, then no bonds shall be issued under this amendment; *and provided further*, that no such indebtedness so created shall be in any part thereof paid by the State or from any State revenue, tax or fund, but the same shall be paid by the city of St. Louis alone: *Provided*, that in the city of St. Louis the amount of bonds now aggregating \$6,111,000, that being the amount assumed by said city in the scheme of separation from the county of St. Louis, and the sum of \$5,808,000, heretofore, prior to January 1, 1901, expended in the construction of waterworks for the city of St. Louis, and any bonds which may be hereafter issued by said city in the construction and improvement of waterworks, the payment of the interest whereon and the principal whereof shall be provided from the revenue of said waterworks; that is to say, the amount of said bonds which shall be outstanding at any time shall not be included in the computation of the existing bonded indebtedness in determining the amount of bonds authorized to be issued by said city, with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid, to an amount including the outstanding indebtedness other than that above named, to the amount of five per cent of the value of the taxable property in said city, to be ascertained as above provided, and said city shall have power, with such assent of the voters, to issue bonds for the construction and improvement of waterworks, the interest whereon and the principal whereof shall be provided for from the income of said waterworks. Said city shall establish a sinking fund for the payment of the bonds so authorized according to the time fixed for the maturity of the same: *Provided*, further, that in the city of Kansas City, the amount of bonds issued by said city, bearing date July 1, 1895, for acquiring waterworks and all bonds hereafter issued in renewal of said bonds or any portion thereof

shall not be included in the computations of the existing bonded indebtedness of said city in determining the amount of bonds authorized to be issued by said city, with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid to an amount including outstanding indebtedness, other than the above-named, to the amount of five per centum of the value of the taxable property in said city, to be ascertained as above specified.

Sec. 12 a. (Amendment of 1902.) Any city in this State containing not more than thirty thousand (30,000), nor less than two thousand (2000) inhabitants, may, with the assent of two-thirds of the voters thereof voting at an election to be held for that purpose, be allowed to become indebted in a larger amount than specified in section 12 of article X of the Constitution of this State, not exceeding an additional five per centum on the value of the taxable property therein, for the purpose of purchasing or constructing waterworks, electric or other light plants, to be owned exclusively by the city so purchasing or constructing the same: *Provided*, that any such city incurring any such indebtedness requiring the assent of the voters as aforesaid, shall have the power to provide for, and, before or at the time of incurring such indebtedness, shall provide for the collection of an annual tax in addition to the other taxes provided for by this Constitution, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same, any provision in this Constitution to the contrary, notwithstanding.

Sec. 13. Private property shall not be taken or sold for the payment of the corporate debt of a municipal corporation.

Sec. 14. The tax authorized by the sixth section of the ordinance adopted June 6, 1865, is hereby abolished, and hereafter there shall be levied and collected an annual tax sufficient to pay the accruing interest upon the bonded debt

of the State, and to reduce the principal thereof each year by a sum not less than two hundred and fifty thousand dollars; the proceeds of which tax shall be paid into the State treasury, and appropriated and paid out for the purposes expressed in the first and second subdivisions of section forty-three of article IV of this Constitution. The funds and resources now in the State Interest and State Sinking funds shall be appropriated to the same purposes; and whenever said bonded debt is extinguished, or a sum sufficient therefor has been raised, the tax provided for in this section shall cease to be assessed.

Sec. 15. All moneys now or at any time hereafter in the State treasury belonging to the State shall, immediately on receipt thereof, be deposited by the Treasurer to the credit of the State for the benefit of the funds to which they respectively belong, in such bank or banks as he may, from time to time, with the approval of the Governor and Attorney-General, select—the said bank or banks giving security, satisfactory to the Governor and Attorney-General, for the safe-keeping and payment of such deposit, when demanded by the State Treasurer on his check—such bank to pay a bonus for the use of such deposits not less than the bonus paid by other banks for similar deposits; and the same, together with such interest and profits as may accrue thereon, shall be disbursed by said Treasurer for the purposes of the State, according to law, upon warrants drawn by the State Auditor, and not otherwise.

Sec. 16. The Treasurer shall keep a separate account of the funds, and the number and amount of warrants received, and from whom; and shall publish, in such manner as the Governor may designate, quarterly statements, showing the amount of State moneys and where the same are kept or deposited.

Sec. 17. The making of profit out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

Sec. 18. There shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney-General. The duty of said Board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law.

Sec. 19. No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Sec. 20. The moneys arising from any loan, debt or liability contracted by the State, or any county, city, town or other municipal corporation, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise.

Sec. 21. No corporation, company or association, other than those formed for benevolent, religious, scientific or educational purposes, shall be created or organized under the laws of this State, unless the persons named as corporators shall, at or before the filing of the articles of association or incorporation, pay into the State treasury fifty dollars for the first fifty thousand dollars or less of capital stock, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. And no such corporation, company or association shall increase its capital stock without first paying into the treasury five dollars for every ten thousand dollars of increase: *Provided*, that nothing contained in this section shall be construed to prohibit the

General Assembly from levying a further tax on the franchises of such corporation.

Sec. 22. (Amendment of 1908.) In addition to taxes authorized to be levied for county purposes under and by virtue of section 11, article 10 of the Constitution of this State, the county court in the several counties of this State, not under township organization and the township board of directors, in the several counties under township organization, may in their discretion levy and collect in the same manner as State and county taxes are collected, a special tax not exceeding twenty-five cents on each \$100 valuation, to be used for road and bridge purposes, but for no other purpose whatever ; and the power hereby given said county courts and township boards is declared to be a discretionary power.

Sec. 26. (Amendment of 1902.) All certificates of indebtedness of the State to the "public school fund" and to the "seminary fund" are hereby confirmed as sacred obligations of the State to said funds, and they shall be renewed as they mature for such period of time and at such rate of interest as may be provided by law. The General Assembly shall have the power to provide by law for the issuing certificates to the public school fund and seminary fund as the money belonging to said funds accumulates in the State treasury: *Provided*, that after the outstanding bonded indebtedness has been extinguished, all money accumulating in the State treasury for above named purposes shall be invested in registered county, municipal, or school district bonds of this State of not less than par value.

Whenever the State bonded debt is extinguished or a sum sufficient therefor has been received, there shall be levied and collected in lieu of the ten cents on the one hundred dollars valuation now provided for by the statutes, an annual tax not to exceed three cents on the one hundred dollars valuation to pay the accruing interest on all the certificates of indebtedness, the proceeds of which tax shall be paid

into the State treasury and appropriated and paid out for the specific purposes herein mentioned.

ARTICLE XI.—EDUCATION.

Section 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

Sec. 2. The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

Sec. 3. Separate free public schools shall be established for the education of children of African descent.

Sec. 4. The supervision of instruction in the public schools shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be president of the board. The Governor, Secretary of State and Attorney-General shall be *ex officio* members, and, with the Superintendent, compose said Board of Education.

Sec. 5. The General Assembly shall, whenever the Public School fund will permit, and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate.

Sec. 6. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United

States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been or hereafter may be made to this State, and not otherwise appropriated by the State or the terms of the grant, gift or devise, shall be paid into the State treasury, and securely invested and sacredly preserved as a Public School fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever.

Sec. 7. In case the Public School fund now provided and set apart by law for the support of free public schools shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the General Assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent of the State revenue, exclusive of the Interest and Sinking fund, to be applied annually to the support of the public schools.

Sec. 8. All moneys, stocks, bonds, lands and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in

the several counties, as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

Sec. 9. No part of the Public School fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school fund, shall be invested in the bonds of the State of Missouri, or of the United States.

Sec. 10. All county school funds shall be loaned only upon unencumbered real estate security, of double the value of the loan, with personal security in addition thereto.

Sec. 11. Neither the General Assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever anything in aid of any religious creed, church or sectarian purpose; or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

ARTICLE XII.—CORPORATIONS.

Section 1. 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 adoption of this Constitution, shall thereafter have no validity.

Sec. 2. No corporation, after the adoption of this Constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory pur-

poses, which are under the patronage and control of the State.

Sec. 3. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporations.

Sec. 4. The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

Sec. 5. The exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

Sec. 6. In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner.

Sec. 7. No corporation shall engage in business, other than that expressly authorized in its charter or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business.

Sec. 8. No corporation shall issue stock or bonds, except for money paid, labor done 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 law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting called for the purpose, first giving sixty days' public notice, as may be provided by law.

Sec. 9. 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 in any amount over or above the amount of stock owned by him or her.

Sec. 10. No corporation shall issue preferred stock without the consent of all the stockholders.

Sec. 11. The term "corporation," as used in this article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships.

RAILROADS.

Sec. 12. It shall not be lawful in this State for any railway company to charge for freight or passengers a greater amount, for the transportation of the same, for a less distance, than the amount charged for any greater distance; and suitable laws shall be passed by the General Assembly to enforce this provision; but excursion and commutation tickets may be issued at special rates.

Sec. 13. Any railroad corporation or association, organized for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads 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 passengers, tonnage and cars, loaded or empty, without delay or discrimination.

Sec. 14. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

Sec. 15. Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and shall report annually, under oath, to the State Auditor, or some officer designated by law, all of their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The General Assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

Sec. 16. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals; and the General Assembly shall pass no law exempting any such property from execution and sale.

Sec. 17. No railroad or other corporation, or the lessees,

purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line. The question whether railroads are parallel or competing lines shall, when demanded, be decided by a jury, as in other civil issues.

Sec. 18. If any railroad company organized under the laws of this State shall consolidate, by sale or otherwise, with any railroad company organized under the laws of any other State, or of the United States, the same shall not thereby become a foreign corporation; but the courts of this State shall retain jurisdiction in all matters which may arise, as if said consolidation had not taken place. In no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

Sec. 19. The General Assembly shall pass no law for the benefit of a railroad or other corporations, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State a new liability in respect to transactions or considerations already past.

Sec. 20. No law shall be passed by the General Assembly granting the right to construct and operate a street railroad within any city, town, village, or on any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchises so granted shall not be transferred without similar assent first obtained.

Sec. 21. No railroad corporation in existence at the time of the adoption of this Constitution shall have the benefit of any future legislation, except on condition of complete

acceptance of all the provisions of this Constitution applicable to railroads.

Sec. 22. No president, director, officer, agent or employe of any railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

Sec. 23. No discrimination in charges or facilities in transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad company, or any lessee, manager or employe thereof, shall make any preference in furnishing cars or motive power.

Sec. 24. No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the General Assembly, or members of the Board of Equalization, or any State or county or municipal officers; and the acceptance of such pass or ticket, by a member of the General Assembly, or any such officer, shall be a forfeiture of his office.

BANKS.

Sec. 25. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation, or joint stock company, or association for banking purposes, now created or hereafter to be created.

Sec. 26. No act of the General Assembly authorizing or creating corporations or associations with banking powers (except banks of deposit or discount), nor amendments thereto, shall go into effect, or in any manner be enforced, unless the same shall be submitted to a vote of the qualified voters of the State, at the general election next succeeding the passage of the same, and be approved by a majority of the votes cast at such election.

Sec. 27. It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president,

director, manager, cashier or other officer of any banking institution, to assent to the reception of deposits, or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent, or in failing circumstances; and any such officer, agent or manager shall be individually responsible for such deposits so received, and all such debts so created with his assent.

ARTICLE XIII.—MILITIA.

Section 1. All able-bodied male inhabitants of this State between the ages of eighteen 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 this State: *Provided*, that no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law.

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, or by the order of the Governor, they may be appointed by the Governor.

Sec. 4. Volunteer companies of infantry, cavalry and artillery may be formed in such manner and under such restrictions as may be provided by law.

Sec. 5. The volunteer and militia 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 appoint the Adjutant-General, Quartermaster-General and his other staff officers. He shall also, with the advice and consent of the Senate, appoint all major-generals and brigadier-generals.

Sec. 7. The General Assembly shall provide for the safe keeping of the public arms, military records, banners and relics of the State.

ARTICLE XIV.—MISCELLANEOUS PROVISIONS.

Section 1. The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

Sec. 2. No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed or executed between the first day of January, one thousand eight hundred and sixty-one, and the twentieth day of August, one thousand eight hundred and sixty-six, by virtue of military authority vested in him, or in pursuance of orders from any person vested with such authority by the government of the United States, or of this State, or of the late Confederate States, or any of them, to do such act. And if any action or proceedings shall have been or shall hereafter be instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

Sec. 3. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in this State.

Sec. 4. No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

Sec. 5. In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official

terms, and until their successors shall be duly elected or appointed and qualified.

Sec. 6. All officers, both civil and military, under the authority of this State, shall, before entering on the duties of their respective offices, take and subscribe an oath, or affirmation, to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

Sec. 7. The General Assembly shall, in addition to other penalties, provide for the removal from office of county, city, town and township officers, on conviction of willful, corrupt or fraudulent violation or neglect of official duty.

Sec. 8. The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed.

Sec. 9. The appointment of all officers, not otherwise directed by this Constitution, shall be made in such manner as may be prescribed by law.

Sec. 10. 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 Legislature of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

Sec. 11. It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations in writing to the court.

Sec. 12. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech

or debate in either house they shall not be questioned in any other place.

ARTICLE XV.—MODE OF AMENDING THE CONSTITUTION.

Section 1. This Constitution may be amended and revised only in pursuance of the provisions of this article.

Sec. 2. The General Assembly may, at any time, propose such amendments to this Constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays and entered in full on the journals. The proposed amendments shall be published with the laws of that session, and also shall be published weekly in some newspaper, if such there be, within each county in the State, for four consecutive weeks next preceding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the General Assembly may provide. If a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this Constitution.

Sec. 3. The General Assembly may at any time authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the Constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the Governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day not less than three and within six months after that on which the said question shall have been voted on. At such election each Senatorial district shall elect two delegates for each Senator to which it may then be entitled in the General Assembly, and every such delegate shall have the qualifications of a State Senator.

The election shall be conducted in conformity with the laws regulating the election of Senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the Constitution; and the Constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty days nor more than six months after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose; and if a majority of all the votes given be in favor of such Constitution, it shall, at the end of thirty days after such election, become the Constitution of this State. The result of such election shall be made known by proclamation by the Governor. The General Assembly shall have no power, otherwise than in this section specified, to authorize a convention for revising and amending the Constitution.

Done in Convention, at the Capitol, in the City of Jefferson, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

WALDO P. JOHNSON, President, St. Clair county.
N. W. WATKINS, Vice-President, Scott county.

AMENDMENT TO THE CONSTITUTION.

Adopted at the general election held on the Tuesday next following the first Monday in November, 1884.

Section 1. The jurisdiction of the St. Louis Court of Appeals is hereby extended so as to be coextensive with the counties of Monroe, Shelby, Knox, Scotland, Clark, Lewis, Marion, Ralls, Pike, Lincoln, Warren, St. Charles, St. Louis, Jefferson, Ste. Genevieve, Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard, Wayne, Bollinger, Madison, St. François, Washington, Franklin, Crawford, Iron, Reynolds, Carter, Butler, Ripley, Oregon, Shannon, Dent, Phelps, Pulaski, Texas, Howell, Ozark, Douglas, Wright, Laclede, Webster, Christian, Taney, Stone, Greene, Lawrence, Barry, Newton, and McDonald, as well as the city of St. Louis; and each judge thereof, when hereafter elected, shall be elected by the qualified voters of the counties and of the city under the jurisdiction of said court, and shall be a resident of the said territorial appellate district.

Sec. 2. There is hereby established at Kansas City an appellate court, to be known as the Kansas City Court of Appeals, the jurisdiction of which shall be coextensive with all the counties in the State except those embraced in the jurisdiction of the St. Louis Court of Appeals. There shall be held in each year two terms of said Kansas City Court of Appeals, one on the first Monday of March and one on the first Monday of October. The Kansas City Court of Appeals shall consist of three judges, who shall be elected by the qualified voters of the counties under the jurisdiction of said court, and shall be residents of said territorial appellate district.

Sec. 3. The General Assembly shall have power by law to create one additional court of appeals, with a new district

therefor; to change the limits of the appellate districts, and the names of the courts of appeals, designating the districts by numbers or otherwise; to change the time of holding the terms of said courts; to increase or diminish the pecuniary limit of the jurisdiction of the courts of appeals; to provide for the transfer of cases from one court of appeals to another court of appeals; to provide for the transfer of cases from a court of appeals to the Supreme Court, and to provide for the hearing and determination of such cases by the courts to which they may be transferred.

Sec. 4. The first term of said Kansas City Court of Appeals shall be held on the first Monday of March in the year 1885, and the first judges thereof shall, upon the adoption of this amendment, be appointed by the Governor of said State for the term of four years each, beginning on the first day of January, 1885, and at the general election in the year 1888, the first election for the judges of said court shall be held, and the provisions of the Constitution of the State concerning the organization, the judges, the powers, the jurisdiction and proceedings of the St. Louis Court of Appeals as herein amended, shall in all appropriate respects apply to the Kansas City Court of Appeals, and to such additional court of appeals as may be by law created.

Sec. 5. In all causes or proceedings reviewable by the Supreme Court, writs of error shall run from the Supreme Court directly to the circuit courts and to courts having the jurisdiction pertaining to circuit courts, and in all such causes or proceedings, appeals shall lie from such trial courts directly to the Supreme Court, and the Supreme Court shall have exclusive jurisdiction of such writs of error and appeals, and shall in all such cases exclusively exercise superintending control over such trial courts.

Sec. 6. When any one of said courts of appeals shall in any cause or proceeding render a decision which any one of the judges therein sitting shall deem contrary to any previous decision of any one of said courts of appeals, or of the Supreme Court, the said court of appeals must, of its

own motion, pending the same term and not afterward, certify and transfer said cause or proceeding and the original transcript therein to the Supreme Court, and thereupon the Supreme Court must rehear and determine said cause or proceeding, as in case of jurisdiction obtained by ordinary appellate process; and the last previous rulings of the Supreme Court on any question of law or equity shall, in all cases, be controlling authority in said courts of appeals.

Sec. 7. All cases which may be pending in the Supreme Court at the time of the adoption of this amendment, which have not been submitted, and which by its terms would come within the territorial appellate jurisdiction of the Kansas City Court of Appeals, shall be certified and transferred to such court to be heard and determined by it.

Sec. 8. The Supreme Court shall have superintending control over the courts of appeals by mandamus, prohibition and *certiorari*.

Sec. 9. The State shall provide a suitable court-room at Kansas City, in which the Kansas City Court of Appeals shall hold its sessions; also a clerk's office and furnished offices for the judges.

Sec. 10. The judges of the Kansas City Court of Appeals, and of such additional court of appeals as may be created by law, shall each annually receive a salary of three thousand five hundred dollars per annum, which, together with the entire salaries of the judges of the St. Louis Court of Appeals, shall be paid out of the State treasury, as the salaries of the judges of the Supreme Court are now paid, unless otherwise provided by law.

Sec. 11. All provisions of the Constitution of this State, and all laws of this State which are inconsistent with this amendment, shall, so far as inconsistent, upon its adoption, be forever rescinded and of no effect.

AMENDMENT TO THE CONSTITUTION.

Adopted at the general election held on the Tuesday next following the first Monday in November, 1890.

Section 1. The Supreme Court shall consist of seven judges, and, after the first Monday in January, 1891, shall be divided into two divisions, as follows: One division to consist of four judges of the court and to be known as division number one, the other to consist of the remaining judges and to be known as division number two. The divisions shall sit separately for the hearing and disposition of causes and matters pertaining thereto, and shall have concurrent jurisdiction of all matters and causes in the Supreme Court, except that division number two shall have exclusive cognizance of all criminal cases pending in said court: *Provided*, that a cause therein may be transferred to the court as provided in section four of this amendment. The division of business of which said divisions have concurrent jurisdiction shall be made as the Supreme Court may determine. A majority of the judges of a division shall constitute a quorum thereof; and all orders, judgments and decrees of either division, as to causes and matters pending before it, shall have the force and effect of those of the court.

Sec. 2. Upon the adoption of this amendment, the Governor shall appoint two additional judges of the Supreme Court, who shall hold their offices until the first Monday in January, 1893; and at the general election in the year 1892 their successors shall be elected, who shall hold their offices for the term of ten years, as other judges of the Supreme Court. The two judges appointed by the Governor, together with the judge elected at the general election in the year 1890, shall constitute division number two, and the remaining judges shall constitute division number one. The court shall elect its Chief Justice, and each division a presiding judge thereof.

Sec. 3. The Supreme Court shall assign to each division the causes and matters to be heard by it, of which assignment due public notice shall be given; and all laws relating to practice in the Supreme Court, as well as the rules of the Supreme Court, shall apply to each division so far as they may be applicable thereto. The opinion of each division shall be in writing, and shall be filed in the causes in which they shall be respectively made during the term at which the cause is submitted, and such opinions shall be a part of the records of the Supreme Court. Each division shall have authority to issue the original writs and exercise the powers enumerated in section three of article six of the Constitution.

Sec. 4. When the judges of a division are equally divided in opinion in a cause, or when a judge of a division dissents from the opinion therein, or when a federal question is involved, the cause, on the application of the losing party, shall be transferred to the court for its decision; or when a decision in which a cause is pending shall so order, the cause shall be transferred to the court for its decision.

Sec. 5. Whenever in the opinion of the Supreme Court the state of its docket with reference to the speedy disposition of the business of the court will justify dispensing with the divisions hereinbefore provided, the court shall dispense therewith, and the court shall thereafter hear and determine all causes pending in it: *Provided*, however, that the court shall have the power to again divide itself into two divisions, in like manner and with like power and effect as hereinbefore provided, whenever in the opinion of six judges thereof, entered of record, the condition of its docket with reference to the speedy disposition of the business of the court shall so require; and in such division the four judges oldest in commission shall constitute division number one, and the remaining judges division number two.

Sec. 6. All provisions of the Constitution of the State, and all laws thereof not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

AMENDMENT TO THE CONSTITUTION.

Adopted at the general election held on the Tuesday next following the first Monday in November, 1908.

Section 1. The legislative authority of the State shall be vested in a legislative assembly, consisting of a Senate and House of Representatives, but the people reserve to themselves power to propose laws and amendments to the Constitution, and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters in each of at least two-thirds of the congressional districts in the State shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety and laws making appropriations for the current expenses of the State government, for the maintenance of the State institutions and for the support of the public schools) either by the petition signed by five per cent of the legal voters in each of at least two-thirds of the congressional districts in the State, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people. All elections on measures re-

ferred to the people of the State shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the vote(r)s cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the State of Missouri." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for Justice of the Supreme Court at the regular election last preceding the filing of any petition for the initiative, or for the referendum, shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

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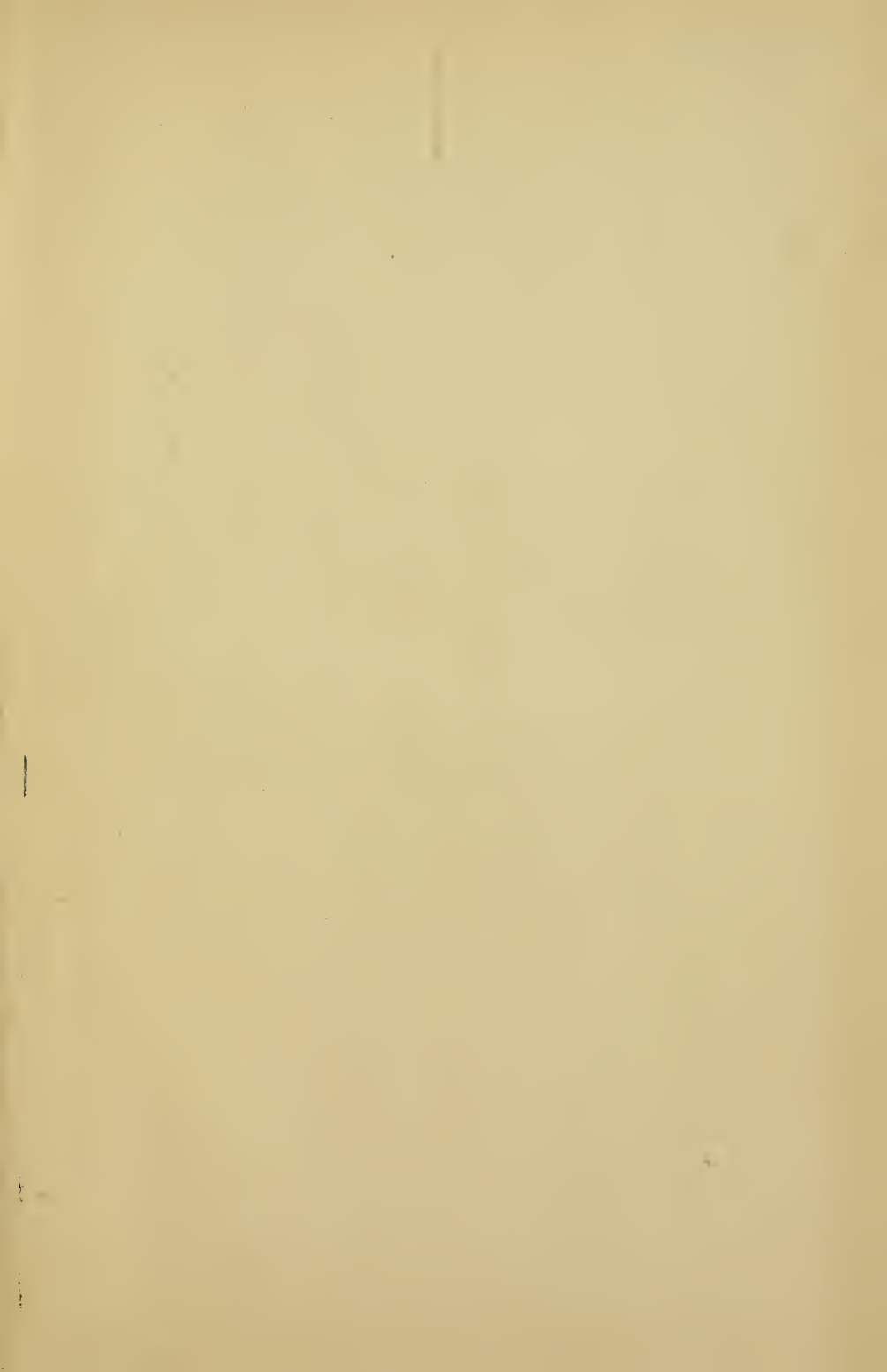
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