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CONSTITUTION  
OF THE  
STATE OF COLORADO

THE BRADFORD-ROBINSON PTG. CO., DENVER





# ENABLING ACT

## AN ACT

TO ENABLE THE PEOPLE OF COLORADO TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF THE SAID STATE INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

Section 1. **AUTHORITY to form state.**—That the inhabitants of the territory of Colorado included in the boundaries hereinafter designated, be, and they are hereby authorized to form for themselves, out of said territory, a state government, with the name of the state of Colorado; which state, when formed, shall be admitted into the Union upon an equal footing with the original states in all respects whatsoever, as hereinafter provided.

Sec. 2. **Boundaries.**—That the said state of Colorado shall consist of all the territory included within the following boundaries, to-wit: commencing on the thirty-seventh parallel of north latitude where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north on the same meridian, to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian, to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

Sec. 3. **Convention—Election—Apportionment—Proclamation.**—That all persons qualified by law to vote for representatives to the general assembly of said territory, at the date of the passage of this act, shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said territory, the chief justice, and the United States attorney thereof may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said territory in proportion to the vote polled in each of said counties at the last general election as near as may be; and said apportionment shall be made for said territory by the governor, United States district attorney, and chief justice thereof, or any two of them; and the governor of said territory shall, by proclamation, order an election of the representatives aforesaid, to be held throughout the territory at such time as shall be fixed by the governor, chief justice and United States attorney, or any two of them; which proclamation shall be issued within ninety days next after the first day of September, eighteen hundred and seventy-five, and at least thirty days prior

to the time of said election; and such election shall be conducted in the same manner as is prescribed by the laws of said territory regulating elections therein, for members of the house of representatives; and the number of members to said convention shall be the same as now constitutes both branches of the legislature of the aforesaid territory.

**Sec. 4. Constitutional convention—Requirements of constitution.—**

That the members of the convention thus elected shall meet at the capital of said territory, on a day to be fixed by said governor, chief justice, and United States attorney, not more than sixty days subsequent to the day of election, which time of meeting shall be contained in the aforesaid proclamation mentioned in the third section of this act, and after organization, shall declare, on behalf of the people of said territory, that they adopt the constitution of the United States; whereupon the said convention shall be and is hereby authorized to form a constitution and state government for said territory; **Provided**, That the constitution shall be **republican in form**, and make no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the declaration of independence; **And, provided further**, That said convention shall provide by an ordinance irrevocable without the consent of the United States and the people of said state; **First**, That perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested in person or property, on account of his or her mode of religious worship; **Secondly**, That the people inhabiting said territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that the lands belonging to citizens of the United States residing without said state shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the state on lands or property therein belonging to, or which may hereafter be purchased by the United States.

**Sec. 5. Adoption of constitution—President proclaim.—**That in case the constitution and state government shall be formed for the people of said territory of Colorado, in compliance with the provisions of this act, said convention forming the same shall provide by ordinance for submitting said constitution to the people of said state for their ratification or rejection, at an election to be held at such time, in the month of July, eighteen hundred and seventy-six, and at such places and under such regulations as may be prescribed by said convention, at which election the lawful voters of said new state shall vote directly for or against the proposed constitution; and the returns of said election shall be made to the acting governor of the territory, who, with the chief justice and United States attorney of said territory, or any two of them, shall canvass the same; and if a majority of the legal votes shall be cast for said constitution in said proposed state, the said acting governor shall certify the same to the president of the United States, together with a copy of said constitu-



tion and ordinances, whereupon it shall be the duty of the president of the United States to issue his proclamation declaring the state admitted into the Union on an equal footing with the original states, without any further action whatever on the part of congress.

**Sec. 6. One representative—Officers—Election.**—That until the next general census said state shall be entitled to one representative in the house of representatives of the United States, which representative, together with the governor and state and other officers provided for in said constitution, shall be elected on a day subsequent to the adoption of the constitution, and to be fixed by said constitutional convention; and until said state officers are elected and qualified under the provisions of the constitution, the territorial officers shall continue to discharge the duties of their respective offices.

**Sec. 7. School lands.**—The sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of congress, other lands equivalent thereto in legal subdivisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said state for the support of common schools.

**Sec. 8. Land for public buildings.**—That, provided the state of Colorado shall be admitted into the Union in accordance with the foregoing provisions of this act fifty entire sections of the unappropriated public lands within said state, to be selected and located by direction of the legislature thereof, and with the approval of the president, on or before the first day of January, eighteen hundred and seventy-eight, shall be and are hereby granted, in legal subdivisions of not less than one quarter-section, to said state for the purpose of erecting public buildings at the capital of said state, for legislative and judicial purposes; in such manner as the legislature shall prescribe.

**Sec. 9. Land for penitentiary.**—That fifty other entire sections of land, as aforesaid, to be selected, and located and with the approval as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby granted to said state for the purpose of erecting a suitable building for a penitentiary or state prison in the manner aforesaid.

**Sec. 10. Land for university.**—That seventy-two other sections of land shall be set apart and reserved for the use and support of a state university, to be selected and approved in manner as aforesaid, and to be appropriated and applied as the legislature of said state may prescribe for the purpose named and for no other purpose.

**Sec. 11. Salt springs.**—That all salt springs within said state not exceeding twelve in number, with six sections of land adjoining, and as contiguous as may be to each, shall be granted to said state for its use, the said land to be selected by the governor of said state within two years after the admission of the state, and when so selected to be used and disposed of on such terms, conditions and regulations as the legislature shall

direct; **Provided**, That no salt spring or lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall by this act be granted to said state.

**Sec. 12. Sale of agricultural lands.**—That five per centum of the proceeds of the sales of agricultural public lands lying within said state, which shall be sold by the United States subsequent to the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to the said state for the purpose of making such internal improvements within said state as the legislature thereof may direct; **Provided**, That this section shall not apply to any lands disposed of under the homestead laws of the United States, or to any lands now or hereafter reserved for public or other uses.

**Sec. 13. Unexpended balance of appropriations.**—That any balance of the appropriations for the legislative expenses of said territory of Colorado remaining unexpended, shall be applied to and used for defraying the expenses of said convention, and for the payment of the members thereof, under the same rules and regulations and rates as are now provided by law for the payment of the territorial legislature.

**Sec. 14. School lands—How sold.**—That the two sections of land in each township herein granted for the support of common schools shall be disposed of only at public sale and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school fund, the interest of which to be expended in the support of common schools.

**Sec. 15. Mineral lands excepted.**—That all mineral lands shall be excepted from the operation and grants of this act.

Approved March 3, 1875.

[The constitution as submitted by the constitutional convention was adopted by the people March 14, 1876, and the state admitted to the Union by the proclamation of President Grant, dated August 1, 1876.]

CONSTITUTION  
OF THE  
STATE OF COLORADO

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Adopted in Convention, March 14, 1876.

PREAMBLE.

We, the people of Colorado, with profound reverence for the Supreme Ruler of the Universe, in order to form a more independent and perfect government; establish justice; insure 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 "State of Colorado."

ARTICLE I.

BOUNDARIES.

The boundaries of the state of Colorado shall be as follows: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on said meridian, to the forty-first parallel of north latitude; thence along said parallel, west, to the thirty-second meridian of longitude west from Washington; thence south, on said meridian, to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

ARTICLE II.

BILL OF RIGHTS.

In order to assert our rights, acknowledge our duties, and proclaim the principles upon which our government is founded, we declare:

Section 1. **Vestment of political power.**—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. **People may alter or abolish form of government—Proviso.**—That the people of this state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; 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. **Inalienable rights.**—That all persons have certain natural, essential and inalienable rights, among which may be reckoned the right of

enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

**Sec. 4. Religious freedom.**—That the free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account on his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.

**Sec. 5. Freedom of elections.**—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. 6. Equality of justice.**—That courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property or character; and that right and justice should be administered without sale, denial or delay.

**Sec. 7. Security of person and property—Searches—Seizures—Warrants.**—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 near as may be, nor without probable cause, supported by oath or affirmation reduced to writing.

**Sec. 8. Prosecutions—Indictment or information.**—That, until otherwise provided by law, no person shall, for a felony, be proceeded against criminally otherwise than by indictment, 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. In all other cases, offenses shall be prosecuted criminally by indictment or information.

**Sec. 9. Treason—Estates of suicides.**—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.

**Sec. 10. Freedom of speech and press.**—That no law shall be passed impairing the freedom of speech; that every person shall be free to speak, 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. 11. Ex post facto laws.**—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, franchises or immunities, shall be passed by the general assembly.

**Sec. 12. No imprisonment for debt.**—That no person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors in such manner as shall be prescribed by law, or in cases of tort or where there is a strong presumption of fraud.

**Sec. 13. Right to bear arms.**—That the right of no person 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 shall be construed to justify the practice of carrying concealed weapons.

**Sec. 14. Taking private property for private use.**—That private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except of reservoirs, drains, flumes or ditches on or across the lands of others, for agricultural, mining, milling, domestic or sanitary purposes.

**Sec. 15. Taking property for public use—Compensation, how ascertained.**—That private property shall not be taken or damaged, for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, 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 needlessly disturbed, or the proprietary rights of the owner therein divested; and 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 determined as such without regard to any legislative assertion that the use is public.

The effect of this section is limited to eminent domain proceedings. *North Sterling Irr. Dist. v. Dickman*, 59 C. 169, 149 P. 97.

The owner of property is entitled to damages for impairment of his easement of access by the closing of a street, though his property does not abut on such street. *Denver Union Terminal Ry. Co. v. Glott*, 67 C. 115, 186 P. 904.

This section is held applicable to damages resulting from the making of an improvement wherever condemnation proceedings are, or might be, necessary or proper, whether such proceedings are instituted or not, and is not limited in its application to actions maintainable at common law. *Logan County v. Adler*, 69 C. 290, 194 P. 621.

**Sec. 16. Criminal prosecutions—Rights of defendant.**—That 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 or district in which the offense is alleged to have been committed.

The fact that defendant was at large under bond does not divest him of the right to a speedy trial. *Miller, ex parte*, 66 C. 261, 180 P. 749.

**Sec. 17. Imprisonment of witnesses—Depositions—Form.**—That no person shall be imprisoned for the purpose of securing his testimony in any case longer than may be necessary in order to take his deposition. If he can give security he shall be discharged; if he cannot give security his deposition shall be taken by some judge of the supreme, district or county court, at the earliest time he can attend, at some convenient place by him appointed for that purpose, of which time and place the accused and the attorney prosecuting for the people shall have reasonable notice. The accused shall have the right to appear in person and by counsel. If he have no counsel, the judge shall assign him one in that behalf only. On the completion of such examination the witness shall be discharged on his own recognizance, entered into before said judge, but such deposition shall not be used if in the opinion of the court the personal attendance of the witness might be procured by the prosecution, or is procured by the accused. No exception shall be taken to such deposition as to matters of form.

For statutes enacted hereunder, see §§470-473, c. 48, Vol. 2, 1935 C. S. A.

**Sec. 18. Crimes—Evidence against one's self—Jeopardy.**—That no person shall be compelled to testify against himself in a criminal case nor shall any person be twice put in jeopardy for the same offense. If the jury disagree, or if the judgment be arrested after the verdict, or if the judgment be reversed for error in law, the accused shall not be deemed to have been in jeopardy.

**Sec. 19. Right to bail.**—That all persons shall be bailable by sufficient sureties except for capital offenses, when the proof is evident or the presumption great.

This section does not give a defendant, if convicted, an absolute right to bail, but it is a matter of discretion with the trial court, so that habeas corpus will be denied on behalf of one convicted of voluntary manslaughter and denied bail and in custody of the sheriff pending the determination of his motion for a new trial. *Romeo v. Downer*, 69 C. 281, 193 P. 559.

**Sec. 20. Excessive bail, fines or punishment.**—That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Sec. 21. Suspension of habeas corpus.**—That the privilege of the writ of habeas corpus shall never be suspended, unless when in case of rebellion or invasion, the public safety may require it.

**Sec. 22. Military subject to civil power—Quartering of troops.**—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.

The governor in employing the militia to suppress an insurrection acts in his civil capacity as the chief civil magistrate, so that the arrest of an insurrectionist by the militia and its refusal to surrender him to the civil authorities for trial prior to the suppression of the insurrection was not a contravention of the above section. *Moyer, in re* 35 C. 159, 85 P. 190.

**Sec. 23. Trial by jury—Grand jury.**—The right of trial by jury shall remain inviolate in criminal cases; but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment; Provided, The general assembly may change, regulate or abolish the grand jury system.

**Sec. 24. Right to assemble and petition.**—That the people have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

**Sec. 25. Due process of law.**—That no person shall be deprived of life, liberty or property, without due process of law.

**Sec. 26. Slavery prohibited.**—That there shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

**Sec. 27. Property rights of aliens.**—Aliens, who are or may hereafter become bona fide residents of this state, may acquire, inherit, possess, enjoy and dispose of property, real and personal, as native born citizens.

**Sec. 28. Rights reserved not disparaged.**—The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

### ARTICLE III.

#### DISTRIBUTION OF POWERS.

The powers of the government of this state are divided into three distinct departments,—the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

### ARTICLE IV.

#### EXECUTIVE DEPARTMENT.

**Section 1. Officers—Terms of office—Residence.**—The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, attorney-general and superintendent of public instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election; Provided, That the terms of office of those chosen at the first election held under this constitution, shall begin on the day appointed for the first meeting of the general assembly. The officers of the executive department except the lieutenant-governor, shall, during their term of office, reside at the seat of government, where they shall keep the public

records, books and papers. They shall perform such duties as are prescribed by this constitution or by law.

**Sec. 2. Governor supreme executive.**—The supreme executive power of the state shall be vested in the governor, who shall take care that the laws be faithfully executed.

**Sec. 3. State officers—Election—Returns.**—The officers named in section one of this article shall be chosen on the day of the general election, by the qualified electors of the state. The returns of every election for said officers shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall immediately, upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of the members of both houses of the general assembly, who shall for that purpose assemble in 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 have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two houses, on joint ballot. Contested elections for the said offices shall be determined by the two houses, on joint ballot, in such manner as may be prescribed by law.

**Sec. 4. Qualification of state officers.**—No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction unless he shall have attained the age of thirty years, nor to the office of auditor of state, secretary of state or state treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney-general unless he shall have attained the age of twenty-five years, and be a licensed attorney of the supreme court of the state or of the territory of Colorado in good standing. At the first election under this constitution any person being a qualified elector at the time of the adoption of this constitution, and having the qualifications above herein prescribed for any one of said offices shall be eligible thereto; but thereafter no person shall be eligible to any one of said offices unless, in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have resided within the limits of the state two years next preceding his election.

**Sec. 5. Governor commander-in-chief of militia.**—The governor shall be commander-in-chief of the military forces of the state, except when they shall be called into actual service of the United States. He shall have power to call out the militia to execute the laws, suppress insurrection or repel invasion.

Where the governor has declared that a state of insurrection exists in a county and has ordered out the militia to suppress it, his determination of the existence of such insurrection is not subject to review by the courts. Moyer, in re, 35 C. 159, 85 P. 190.

**Sec. 6. Appointment of officers—Vacancy.**—The governor shall nominate, and by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided



for, and may remove any such officer for incompetency, neglect of duty or malfeasance in office. If during the recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of auditor of state, state treasurer, secretary of state, attorney-general or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. The senate in deliberating upon executive nominations may sit with closed doors, but in acting upon nominations they shall sit with open doors, and the vote shall be taken by ayes and noes, which shall be entered upon the journal.

An office, appointment to which is provided for and regulated only by statute, does not come within the provisions of the above section. *People v. Osborne*, 7 C. 605, 4 P. 1074; *Trimble v. People*, 19 C. 187, 34 P. 981.

The approval of the senate is not requisite where the appointment is otherwise prescribed. *Brown v. People*, 11 C. 109, 17 P. 104.

Where a removal from office can be made only for some specified cause, there must be a charge against the officer whose removal is proposed. Notice of time and place of hearing must be given and he must be accorded an opportunity to make his defense. *Benson v. People*, 10 C. A. 175, 50 P. 212. See sec. 11, c. 36, Vol. 2, 1935 C. S. A.

**Sec. 7. Governor may grant reprieves and pardons.**—The governor shall have power to grant reprieves, commutations and pardons after conviction, for all offenses except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons, but he shall in every case where he may exercise this power, send to the general assembly at its first session thereafter, a transcript of the petition, all proceedings, and the reasons for his action.

Chap. 58, S. L. 1919, creating Board of Pardons, repealed by Chap. 170, S. L. 1923.

**Sec. 8. Governor may require information from officers—Message.**—The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. The governor shall, at the commencement of each session, and from time to time, by message, give to the general assembly information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall also send to the general assembly a statement, with vouchers, of the expenditures of all moneys belonging to the state and paid out by him. He shall, also, at the commencement of each session, present estimates of the amount of money required to be raised by taxation for all purposes of the state.

Officers of educational institutions report annually, §60, c. 153, Vol. 4, 1935 C. S. A. For official reports, time of filing, etc., see §63, c. 153, Vol. 4, 1935 C. S. A.

**Sec. 9. Governor may convene legislature or senate.**—The governor may, on extraordinary occasions convene the general assembly, by procla-

mation, stating therein the purpose for which it is to assemble; but at such special session no business shall be transacted other than that specifically named in the proclamation. He may by proclamation, convene the senate in extraordinary session for the transaction of executive business.

The legislature is not limited to the specific detail mentioned in the call, but has the right to legislate concerning the general subject concerned therein. *Baker v. Kaiser*, 126 F. 317.

**Sec. 10. Governor may adjourn legislature.**—The governor, in case of a disagreement between the two houses as to the time of adjournment, may upon the same being certified to him by the house last moving adjournment, adjourn the general assembly to a day not later than the first day of the next regular session.

**Sec. 11. Bills presented to governor—Veto—Return.**—Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve he shall sign it, and thereupon it shall become a law, but if he do not approve, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, 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 the members elected to that house, it shall become a law, notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by ayes and noes, to be entered upon the journal. If any bill shall not be returned by the governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly shall by their adjournment prevent its return, in which case it shall be filed with his objections in the office of the secretary of state, within thirty days after such adjournment, or else become a law.

A bill being vetoed by the governor, and the general assembly failing to pass it over the veto, existing legislation upon the subject matter of the bill remains undisturbed. *Veto Power*, in re, 9 C. 642, 21 P. 477.

The right of veto does not extend to initiated or referred measures. See Art. 5, §1. As to veto of orders and resolutions, see Art. 5, §39.

**Sec. 12. Governor may veto items in appropriation bills—Reconsideration.**—The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in manner following: If the general assembly be in session, he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

**Sec. 13. Lieutenant-governor acts as governor—When.**—In case of the death, impeachment or conviction of felony or infamous misdemeanor, 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 be removed, shall devolve upon the lieutenant-governor.

**Sec. 14. Lieutenant-governor president of senate—President pro tem.**—The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. In case of the absence, impeachment or disqualification from any cause of the lieutenant-governor, or when he shall hold the office of governor, then the president pro tempore of the senate shall perform the duties of the lieutenant-governor, until the vacancy is filled or the disability removed.

**Sec. 15. No lieutenant-governor—Who to act as governor.**—In case of the failure to qualify in his office, death, resignation, absence from the state, impeachment, conviction of felony or infamous misdemeanor, or disqualification from any cause, of both the governor and lieutenant-governor, the duties of the governor shall devolve on the president of the senate, pro tempore, until such disqualification of either the governor or lieutenant-governor be removed, or the vacancy be filled, 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.

**Sec. 16. Account and report of moneys.**—An account shall be kept by the officers of the executive department and of all public institutions of the state, of all moneys received by them severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the governor, under oath.

**Sec. 17. Executive officers make report.**—The officers of the executive department and of all public institutions of the state, shall, at least twenty days preceding each regular session of the general assembly, make full and complete reports of their actions to the governor, who shall transmit the same to the general assembly.

**Sec. 18. State seal.**—There shall be a seal of the state, which shall be kept by the secretary of state, and shall be called the "Great Seal of the State of Colorado." The seal of the territory of Colorado, as now used, shall be the seal of the state, until otherwise provided by law.

**Sec. 19. Salaries of officers—Fees paid into treasury.**—The officers named in section one of 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. It shall be the duty of all such officers to collect in advance all fees prescribed by law for services rendered by them severally, and pay the same into the state treasury.

**Sec. 20. State librarian.**—The superintendent of public instruction shall be ex officio state librarian.

**Sec. 21. Auditor and treasurer ineligible to re-election.**—Neither the state treasurer nor state auditor shall be eligible for re-election as his own immediate successor.

## ARTICLE V.

## LEGISLATIVE DEPARTMENT.

Section 1. **General assembly—Initiative and referendum.**—The legislative power of the state shall be vested in the general assembly consisting of a senate and house of representatives, both to be elected by the people, but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the general assembly, and also reserve power at their own option to approve or reject at the polls any act, item, section or part of any act of the general assembly.

The first power hereby reserved by the people is the initiative, and at least eight per cent. of the legal voters shall be required to propose any measure by petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, shall be addressed to and filed with the secretary of state at least four months before the election at which they are to be voted upon.

The second power hereby reserved 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 appropriations for the support and maintenance of the department of state and state institutions, against any act, section or part of any act of the general assembly, either by a petition signed by five per cent. of the legal voters or by the general assembly. Referendum petitions shall be addressed to and filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly, that passed the bill on which the referendum is demanded. The filing of a referendum petition against any item, section or part of any act, shall not delay the remainder of the act from becoming operative. The veto power of the governor shall not extend to measures initiated by, or referred to the people. All elections on measures referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon, and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the right to enact any measure. The whole number of votes cast for secretary of state at the regular general election last preceding the filing of any petition for the initiative or referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted.

The secretary of state shall submit all measures initiated by or referred to the people for adoption or rejection at the polls, in compliance herewith. The petition shall consist of sheets having such general form printed or written at the top thereof as shall be designated or prescribed by the secretary of state; such petition shall be signed by qualified electors in their own proper persons only, to which shall be attached the resi-

dence address of such person and the date of signing the same. To each of such petitions, which may consist of one or more sheets, shall be attached an affidavit of some qualified elector, that each signature thereon is the signature of the person whose name it purports to be, and that to the best of the knowledge and belief of the affiant, each of the persons signing said petition was at the time of signing, a qualified elector. Such petition so verified shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are qualified electors. The text of all measures to be submitted shall be published as constitutional amendments are published, and in submitting the same and in all matters pertaining to the form of all petitions the secretary of state and all other officers shall be guided by the general laws, and the act submitting this amendment, until legislation shall be especially provided therefor.

The style of all laws adopted by the people through the initiative shall be, "Be it Enacted by the People of the State of Colorado."

The initiative and referendum powers reserved to the people by this section are hereby further reserved to the legal voters of every city, town and municipality as to all local, special and municipal legislation of every character in or for their respective municipalities. The manner of exercising said powers shall be prescribed by general laws, except that cities, towns and municipalities may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than ten per cent. of the legal voters may be required to order the referendum, nor more than fifteen per cent. to propose any measure by the initiative in any city, town or municipality.

This section of the constitution shall be in all respects self-executing.

[Amended section as proposed by L. '10, p. 11, and adopted November 8, 1910. The original section read: "The legislative power shall be vested in the general assembly, which shall consist of a senate and house of representatives, both to be elected by the people."]

All referable acts of the general assembly which contain the emergency clause, (see Art. 5, Sec. 19) but not the "safety" clause, if not referred, take effect ninety days after the adjournment of the session of the general assembly at which passed by the governor. *Interrogatories, in re*, 66 C. 319, 181 P. 197.

An initiated law may be repealed by the general assembly. *Senate Resolution, in re*, 54 C. 262, 130 P. 333.

Whether a law is necessary for the immediate preservation of the public peace, health or safety is exclusively for the general assembly. *Senate Resolution, in re*, 54 C. 262, 130 P. 333.

The number of amendments to the constitution that may be proposed by initiative to be voted on at a single election is not limited. *People ex rel. v. Prevost*, 55 C. 199, 134 P. 129.

A court can not review the legislative determination that an act is necessary for the immediate preservation of the public peace, health and safety. *Van Kleeck v. Ramer*, 62 C. 4, 156 P. 1108.

An act declaring that every sentence and clause thereof is "necessary for the immediate preservation of the public peace, health and safety" can not be referred to the people. *People v. Ramer*, 61 C. 422, 158 P. 146.

A concurrent resolution ratifying the national prohibition amendment is not subject to the referendum. *Prior v. Noland*, 68 C. 263, 188 P. 729.

In the absence of the "safety" clause, all acts, although they carry the emergency clause declaring that they shall take effect from and after their passage, are still subject to reference. *Interrogatories, in re*, 66 C. 319, 181 P. 197.

All acts not referable because the "safety" clause is attached or because they show on their face that they are excepted from the referendum provisions, (appropriations for support of departments of state and state institutions) not carrying the emergency clause, go into effect ninety days after their passage and approval by the governor. *Interrogatories, in re*, 66 C. 319, 181 P. 197.

**Sec. 2. Election of members—Vacancies.**—An election for members of the general assembly shall be held on the first Tuesday in October, in the years of our Lord 1876 and 1878, and in each alternate year thereafter, on such day, at such places in each county as now are or hereafter may be provided by law. The first election for members of the general assembly under the state organization, shall be conducted in the manner prescribed by the laws of Colorado territory, regulating elections for members of the legislative assembly thereof. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

**Sec. 3. Terms of senators and representatives.**—Senators shall be elected for the term of four years, except as hereinafter provided, and representatives for the term of two years.

**Sec. 4. Qualifications of members.**—No person shall be a representative or senator who shall not have attained the age of twenty-five years, who shall not be a citizen of the United States, who shall not for at least twelve months next preceding his election, have resided within the territory included in the limits of the county or district in which he shall be chosen; Provided, That any person who at the time of the adoption of this constitution, was a qualified elector under the territorial laws, shall be eligible to the first general assembly.

**Sec. 5. Classification of senators.**—The senators, at their first session, shall be divided into two classes. Those elected in districts designated by even numbers shall constitute one class; those elected in districts designated by odd numbers shall constitute the other class, except that senators elected in each of the districts having more than one senator shall be equally divided between the two classes. The senators of one class shall hold for two years; those of the other class shall hold for four years, to be decided by lot between the two classes, so that one-half of the senators, as near as practicable, may be biennially chosen forever thereafter.

**Sec. 6. Compensation of members.**—Each member of the general assembly, until otherwise provided by law, shall receive as compensation for his services the sum of one thousand (\$1000) dollars for each biennial period, payable at the rate of \$7.00 per day during both the regular and special sessions, the remainder, if any, payable on the first day of the last month of each biennial period; together with all actual and necessary traveling expenses to be paid after the same have been incurred and audited, and the said members of the general assembly shall receive no other compensation, perquisite or allowance whatever. No general assembly shall fix its own compensation.

[Amended section as proposed by L. '09 p. 314, adopted November 8, 1910. The original section read: "Each member of the first general assembly, as a compensation for his services, shall receive four dollars for each day's attendance, and fifteen cents for each mile necessarily traveled in going to and returning from the seat of government; and shall receive no other compensation, perquisite or allowance whatsoever. No session of the general assembly, after the first, shall exceed forty days. After the first session, the compensation of the members of the general assembly, shall be as provided by law; Provided, That no general assembly shall fix its own compensation."]

[A former amendment proposed by L. '83, p. 21, adopted November 4, 1884, read as follows: "Each member of the general assembly, until otherwise provided by law, shall receive as compensation for his services, seven (7.00) dollars for each day's attendance, and fifteen (15) cents for each mile necessary traveled in going to and returning from the seat of government, and shall receive no other compensation, perquisite, or allowance whatsoever. No session of the general assembly shall exceed ninety days. No general assembly shall fix its own compensation."]

**Sec. 7. General assembly—Shall meet when—Term of members.—**The general assembly shall meet at 12 o'clock, noon, on the first Wednesday in November, A. D. 1876; and at 12 o'clock, noon, on the first Wednesday in January, A. D. 1879, and at 12 o'clock, noon, on the first Wednesday of January of each alternate year forever thereafter; and at other times when convened by the governor. The term of service of the members thereof shall begin on the first Wednesday of November next after their election, until otherwise provided by law.

**Sec. 8. Members precluded from holding office.—**No senator or representative shall, during the time for which he shall have been elected be appointed to any civil office under this state; and no member of congress, or other person holding any office (except of attorney-at-law, notary public, or in the militia) under the United States or this state, shall be a member of either house during his continuance in office.

The provision of the first clause only prohibits a senator from being appointed to a civil office, not his election thereto. *Carpenter v. People*, 8 C. 116, 5 P. 828.

**Sec. 9. Increase of salary—When forbidden.—**No member of either house shall, during the term for which he may have been elected, receive any increase of salary or mileage, under any law passed during such term.

**Sec. 10. Each house choose its officers.—**The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president pro tempore. The house of representatives shall elect one of its members as speaker. Each house shall choose its other officers, and shall judge of the election and qualification of its members.

**Sec. 11. Quorum.—**A majority of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

**Sec. 12. Each house makes and enforces rules.—**Each house shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence; to enforce obedience to its process; to protect its members against violence, or offers of bribes or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free state. A member, expelled for corruption, shall not thereafter be eligible to either house of the same general assembly, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

**Sec. 13. Journal—Ayes and nays to be entered, when.—**Each house shall keep a journal of its proceedings, and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and

the ayes and noes on any question shall, at the desire of any two members, be entered on the journal.

**Sec. 14. Open sessions.**—The sessions of each house and of the committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

**Sec. 15. Adjournment for more than three days.**—Neither house 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.

**Sec. 16. Privileges of members.**—The members of the general assembly shall, in all cases except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

**Sec. 17. No law passed but by bill—Amendments.**—No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

**Sec. 18. Enacting clause.**—The style of the laws of this state shall be: "Be it enacted by the General Assembly of the State of Colorado."

**Sec. 19. Laws take effect in ninety days, except—Introduction of bills.**—No act of the general assembly shall take effect until ninety days after its passage unless in case of emergency (which shall be expressed in the act) the general assembly shall, by vote of two-thirds of all members elected to each house, otherwise direct. No bill except the general appropriation bill for the expenses of the government only, introduced in either house of the general assembly after the first fifteen days of the session shall become law.

[Amended section as proposed by L. '17, p. 602, adopted November 5, 1918. The original section read: "No act of the general assembly shall take effect until ninety days after its passage, unless in case of emergency (which shall be expressed in the preamble or body of the act), the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. No bill except the general appropriation for the expenses of the government only introduced in either house of the general assembly after the first twenty-five days of the session shall become a law."]

[A prior amendment proposed by L. '83, p. 21, and adopted November 4, 1884, read as follows: "No act of the general assembly shall take effect until ninety days after its passage unless in cases of emergency (which shall be expressed in the act), unless the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. No bill, except the general appropriation bill for the expenses of the government only, introduced in either house of the general assembly after the first thirty days of the session, shall become a law." The text of which section is taken from in re Emergency Clause, 18 Colo. 292; the enrolled bill having been lost.]

That part of this section requiring a two-thirds vote, to have an act to go into effect at once, was not intended to be repealed by section 1 of this article, but the two sections must be construed together. *People v. Ramer*, 61 C. 422, 158 P. 146.

The provision of the above section for emergency clauses in statutes was not repealed by the initiative and referendum amendment to Art. 5, Sec. 1. *Interrogatories of the Governor*, in re, 66 C. 319, 181 P. 197; and see also note to Sec. 1 hereof.

For construction of the above section, see *People v. Friederich*, 67 C. 69, 185 P. 657.

**Sec. 20. Bills referred to committee—Printed.**—No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.



**Sec. 21. Bill to contain but one subject—Expressed in title.**—No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

Where the title purports to amend a section that has already been repealed it may be sustained where it contains matter showing the subject of legislation. *Anderson v. Douglas County*, 67 C. 403, 186 P. 284.

**Sec. 22. Reading and passage of bills.**—Every bill shall be read by title when introduced, and at length on two different days in each house; all substantial amendments made thereto, shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law except by a vote of a majority of all the members elected to each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

[Amended section as proposed by L. '83, p. 21. Adopted November 4, 1884. The original section read: "Every bill shall be read at length on the three different days in each house; all substantial amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill; and no bill shall become a law, except by vote of a majority of all the members elected to each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal."]

The reading of the bill in committee of the whole, together with the reporting and recording of the fact upon the journal may be treated as one reading of the bill. *Reading of Bills*, in re, 9 C. 641, P. 477.

It is permissible to show by parol evidence that the journal, as originally written, showed a compliance with this section, regarding the taking of a vote on a bill. *Colorado & S. R. Co. v. Davis*, 23 C. A. 41, 127 P. 249.

**Sec. 23. Vote on amendments and report of committee.**—No amendment to any bill by one house shall be concurred in by the other nor shall the report of any committee of conference be adopted in either house except by a vote of a majority of the members elected thereto, taken by ayes and noes, and the names of those voting recorded upon the journal thereof.

**Sec. 24. Revival, amendment or extension of laws.**—No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended or conferred, shall be re-enacted and published at length.

For construction of the above section see *People v. Friederich*, 67 C. 69, 185 P. 657.

**Sec. 25. Special legislation prohibited.**—The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys and public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates and constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others

under disability; the protection of game or fish; chartering or licensing ferries or toll bridges; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentage or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever. In all other cases, where a general law can be made applicable, no special law shall be enacted.

A law is not local or special when it is general and uniform in its operation upon all in like situation. *People v. Earl*, 42 C. 238, 94 P. 294.

**Sec. 25a. Eight-hour employment.**—The general assembly shall provide by law, and shall prescribe suitable penalties for the violation thereof, for a period of employment not to exceed eight (8) hours within any twenty-four (24) hours (except in cases of emergency where life or property is in imminent danger), for persons employed in underground mines or other underground workings, blast furnaces, smelters; and any ore reduction works or other branch of industry or labor that the general assembly may consider injurious or dangerous to health, life or limb.

[Additional section as proposed by L. '01, p. 108. Adopted November 4, 1902.]

For eight-hour days see §§100-116, c. 97, Vol. 3, 1935 C. S. A.

**Sec. 26. Signing of bills.**—The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after their titles shall have been publicly read, immediately before signing; and the fact of signing shall be entered on the journal.

**Sec. 27. Officers and employes of each house—Compensation.**—The general assembly shall prescribe by law the number, duties and compensation of the officers and employes of each house; and no payment shall be made from the state treasury, or be in any way authorized to any person, except to an acting officer or employe elected or appointed in pursuance of law.

**Sec. 28. Extra compensation to officers, etc., forbidden.**—No bill shall be passed giving any extra compensation to any public officer, servant or employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the state without previous authority of law.

In view of the above section and section 33 of this article, a general appropriation bill can only provide for charges already created against public funds by legislative act, so that compensation for expenses of lieutenant governor must first be prescribed by legislation before they can be included therein. *Leckenby v. Post P. & P. Co.*, 65 C. 443, 176 P. 490.

**Sec. 29. Contracts for quarters, furnishings and supplies.**—All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished; and the printing and binding and distributing of the laws, journals, department reports, and other printing and binding; and the repairing and furnishing the halls and rooms used for the meeting of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by

law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and state treasurer.

The expression "department reports" does not include the reports of opinions of the supreme court. *Gillette v. Peabody*, 19 C. A. 356, 75 P. 18.

**Sec. 30. Extension of term and increase of salary of public officers.**—The salaries of the Governor, the Governor's Secretary, and the Judges of the Supreme and District Courts of the State shall be fixed by legislative enactment; provided, that the salaries of said officers heretofore fixed by the Constitution shall continue in force until otherwise provided for by legislative enactment.

No law shall extend the term of any public officer, or increase or decrease his salary, after his election or appointment, as fixed by legislative enactment.

[Amended section as proposed by L. '81, p. 63. Adopted November 7, 1882. The original section read: "Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment; Provided, This shall not be construed to forbid the general assembly to fix the salary or emoluments of those first elected or appointed under this constitution."]

[Amended section as proposed by Laws, 1927, p. 753. Adopted November 6, 1928.]

**Sec. 31. Revenue bills.**—All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in case of other bills.

Section 8286. C. L. 1921, is not a revenue law within the meaning of this section, for the senate had power to originate the act of which said section is an amendment, and likewise also this amendment of the same. *Chicago, B. & Q. R. Co. v. School District*, 63 C. 159, 165 P. 260. Above section amended L. '33. See §32, c. 146, Vol. 4, 1935 C. S. A.

**Sec. 32. Appropriation bills.**—The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

**Sec. 33. Disbursements of public money.**—No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

**Sec. 34. Appropriations to private institutions forbidden.**—No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

**Sec. 35. Delegation of power.**—The general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

**Sec. 36. Laws on investments of trust funds forbidden.**—No acts of the general assembly shall authorize the investment of trust funds by

executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation.

**Sec. 37. Change of venue.**—The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such a manner as shall be provided by law.

**Sec. 38. No liability exchanged or released.**—No obligation or liability of any person, association or corporation, held or owned by the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the general assembly, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury.

**Sec. 39. Orders and resolutions presented to governor.**—Every order, resolution or vote to which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of business of the two houses, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

The veto power does not extend to a recommendation for a constitutional convention passed by virtue of Const., Art. XIX, §1. *People v. Ramer*, 62 C. 128, 160 P. 1032. See also Art. 4, Sec. 11.

**Sec. 40. Bribery and influence in general assembly.**—If any person elected to either house of the general assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition pending or proposed to be introduced in the general assembly in consideration or upon condition that any other person elected to the same general assembly will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such general assembly, the person making such offer or promise, shall be deemed guilty of solicitation of bribery. If any member of the general assembly shall give his vote or influence for or against any measure or proposition pending in such general assembly, or offer, promise or assent so to do, upon condition that any other member will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such general assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such general assembly, he shall be deemed guilty of bribery; and any member of the general assembly, or person elected thereto, who shall be guilty of either of such offenses shall be expelled, and shall not be thereafter eligible to the same general assembly; and on conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

See sec. 146, c. 48, Vol. 2, 1935 C. S. A.

**Sec. 41. Offering, giving, promising money or other consideration.**—Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage to

any executive or judicial officer or member of the general assembly, to influence him in the performance of any of his public or official duties,—shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

See also §147.

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

See §148.

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

#### Congressional and Legislative Apportionments.

**Sec. 44. Representatives in congress.**—One representative in the congress of the United States shall be elected from the state at large at the first election under this constitution, and thereafter at such times and places and in such manner as may be prescribed by law. When a new apportionment shall be made by congress the general assembly shall divide the state into congressional districts accordingly.

For congressional apportionment, see sec. 9, c. 8, Vol. 2, 1935 C. S. A.

**Sec. 45. Census.**—The general assembly shall provide by law for an enumeration of the inhabitants of the state, in the year of our Lord 1885, and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives, on the basis of such enumeration according to ratios to be fixed by law.

**Sec. 46. Number of members of general assembly.**—The senate shall consist of twenty-six and the house of representatives of forty-nine members, which number shall not be increased until the year of our Lord one thousand eight hundred and ninety, after which time the general assembly may increase the number of senators and representatives, preserving as near as may be the present proportion as to the number in each house; Provided, That the aggregate number of senators and representatives shall never exceed one hundred.

For present membership, see sec. 1, c. 8, Vol. 2, 1935 C. S. A.

**Sec. 47. Senatorial and representative districts.**—Senatorial and representative districts may be altered from time to time, as public convenience may require. When a senatorial or representative district shall be composed of two or more counties, they shall be contiguous, and the dis-

tract as compact as may be. No county shall be divided in the formation of a senatorial or representative district.

Senatorial and representative districts. See sec. 3 and 6, c. 8, Vol. 2, 1935 C. S. A.

**Sec. 48. Senatorial districts.**—Until the state shall be divided into senatorial districts, in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The county of Weld shall constitute the first district, and be entitled to one senator.

The county of Larimer shall constitute the second district, and be entitled to one senator.

The county of Boulder shall constitute the third district, and be entitled to two senators.

The county of Gilpin shall constitute the fourth district, and be entitled to one senator.

The counties of Gilpin, Summit and Grand shall constitute the fifth district, and be entitled to one senator.

The county of Clear Creek shall constitute the sixth district, and be entitled to two senators.

The county of Jefferson shall constitute the seventh district, and be entitled to one senator.

The county of Arapahoe shall constitute the eighth district, and be entitled to four senators.

The counties of Elbert and Bent shall constitute the ninth district, and be entitled to one senator.

The county of El Paso shall constitute the tenth district, and be entitled to one senator.

The county of Douglas shall constitute the eleventh district, and be entitled to one senator.

The county of Park shall constitute the twelfth district, and be entitled to one senator.

The counties of Lake and Saguache shall constitute the thirteenth district, and be entitled to one senator.

The county of Fremont shall constitute the fourteenth district, and be entitled to one senator.

The county of Pueblo shall constitute the fifteenth district, and be entitled to one senator.

The county of Huerfano shall constitute the sixteenth district, and be entitled to one senator.

The county of Las Animas shall constitute the seventeenth district, and be entitled to two senators.

The county of Costilla shall constitute the eighteenth district, and be entitled to one senator.

The county of Conejos shall constitute the nineteenth district, and be entitled to one senator.

The counties of Rio Grande, Hinsdale, La Plata and San Juan shall constitute the twentieth district, and be entitled to one senator.

See sec. 3, c. 8, Vol. 2, 1935 C. S. A.

Sec. 49. **Representative districts.**—Until an apportionment of representatives be made, in accordance with the provisions of this article, they shall be divided among the several counties of the state in the following manner: The county of Arapahoe shall have seven; the counties of Boulder and Clear Creek, each, four; the counties of Gilpin and Las Animas, each, three; the counties of El Paso, Fremont, Huerfano, Jefferson, Pueblo and Weld, each, two; the counties of Bent, Costilla, Conejos, Douglas, Elbert, Grand, Hinsdale, Larimer, La Plata, Lake, Park, Rio Grande, Summit, Saguache and San Juan, each, one; and the counties of Costilla and Conejos, jointly, one.

See sec. 6, c. 8, Vol. 2, 1935 C. S. A.

## ARTICLE VI.

### JUDICIAL DEPARTMENT.

Section 1. **Vestment of judicial power.**—The judicial power of the state as to all matters of law and equity, except as in the constitution otherwise provided, shall be vested in the supreme court, district courts, county courts, and such other courts as may be provided by law. In counties and cities and counties having a population exceeding 100,000, exclusive original jurisdiction in cases involving minors and persons whose offenses concern minors may be vested in a separate court now or hereafter established by law.

[Amended section as proposed by initiative petition and adopted November 5, 1912. The original section read: "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, district courts, county courts, justices of the peace, and such other courts as may be created by law for cities and incorporated towns."]

[A prior amendment, proposed by L. '85, p. 145, adopted November 2, 1886, read as follows: "The judicial power of the state as to matters of law and equity, except as in the constitution otherwise provided, shall be vested in a supreme court, district courts, county courts, justices of the peace, and such other courts as may be provided by law."]

Those portions of this amended section, as originally adopted November 5, 1912, prohibiting courts other than the supreme court from declaring any law unconstitutional, and providing for the recall of decisions, were held unconstitutional in *People v. Western Union Telegraph Co.*, 70 Colo. 90, 198 Pac. 146, and *People v. Max*, 70 Colo. 100, 198 Pac. 150, and are omitted; the omitted part being found in L. '13, P. 678.

#### Supreme Court.

Sec. 2. **Appellate jurisdiction.**—The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

Sec. 3. **Original jurisdiction—Opinions.**—It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and other original and remedial writs, with authority to hear and determine the same; and each judge of the supreme court shall have like power and authority as to writs of habeas corpus. The supreme court shall give its opinion upon important questions upon solemn occasions when required by the governor, the senate, or the house of representatives; and all such

opinions shall be published in connection with the reported decisions of said court.

[Amended section as proposed by L. '85, p. 145. Adopted November 2, 1886. The original section read: "It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same."]

The supreme court is the sole judge of what is "an important question" and a "solemn occasion." Interrogatories of the House, in re, 62 C. 188, 162 P. 1144.

**Sec. 4. Terms.**—At least two terms of the supreme court shall be held each year, at the seat of government.

**Sec. 5. Personnel of court—Departments.**—The supreme court shall consist of seven judges, who may sit en banc or in two or more departments as the court may, from time to time, determine. In case said court shall sit in departments, each of said departments shall have the full power and authority of said court in the determination of causes, the issuing of writs and the exercise of all powers authorized by this constitution, or provided by law, subject to the general control of the court sitting en banc, and such rules and regulations as the court may make, but no decision of any department shall become the judgment of the court unless concurred in by at least three judges, and no case involving a construction of the constitution of this state or of the United States, shall be decided except by the court en banc.

[Amended section as proposed by L. '03, p. 148. Adopted November 8, 1904. The original section read: "The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision."]

A majority of the members of the supreme court constitute the court en banc, and a majority as thus constituted may decide a case, three judges at least concurring. Mountain States T. & T. Co. v. People, 68 C. 487, 190 P. 513. See §18, c. 46, Vol. 2, 1935 C. S. A.

**Sec. 6. Election of judges.**—The judges of the supreme court, except as herein provided, shall be elected by the electors of the state at large.

[Amended section as proposed by L. '03, p. 149. Adopted November 8, 1904. The original section read: "The judges of the supreme court shall be elected by the electors of the state, at large, as hereinafter provided."]

**Sec. 7. Term of office.**—The term of office of the judges of the supreme court, hereafter elected, except as in this article otherwise provided, shall be ten years.

[Amended section as proposed by L. '03, p. 149. Adopted November 8, 1904. The original section read: "The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be nine years."]

**Sec. 8. Appointment and election of judges.**—No successor of the judge of the court of appeals whose term expires in April, 1905, shall be appointed.

On the first Wednesday of April, 1905, the court of appeals shall cease to exist, and the judges of said court whose regular terms shall not then have expired shall become judges of the supreme court. All causes pending before the court of appeals shall then stand transferred to, and be pending in, the supreme court, and no bond or obligation given in any of said causes shall be affected by said transfer.

The term of office of that judge of the supreme court whose term expires on the second Tuesday in January, 1907, shall so expire; the term of office of that judge transferred from the court of appeals whose term



shall expire in April, 1907, shall expire on the second Tuesday in January, 1907; and the term of office of that judge of the supreme court whose term expires in January, 1910, is hereby extended to the second Tuesday in January, 1911; and the term of office of the judge or judges transferred from the court of appeals whose term would expire in April, 1909, shall expire on the second Tuesday in January, 1909; and the term of office of the judges of the supreme court whose term expires on the second Tuesday in January, 1913, shall so expire.

At the general election in the year 1906, and every tenth year thereafter, there shall be elected two judges of the supreme court.

At the general election in the year 1908, there shall be elected three judges of the supreme court, one for the term of six years, and two for the term of ten years.

At the general election in the year 1910, and every tenth year thereafter, there shall be elected one judge of the supreme court.

At the general election in the year 1912, and every tenth year thereafter, there shall be elected one judge of the supreme court.

At the general election in the year 1914, and every tenth year thereafter, there shall be elected one judge of the supreme court.

At the general election in the year 1918, and every tenth year thereafter, there shall be elected two judges of the supreme court.

Provided, That if said court of appeals shall at the time of the going into effect of this amendment, by law consist of only three judges, the governor shall nominate and by and with the advice and consent of the senate appoint two judges of the supreme court whose term of office shall begin on the first Wednesday of April, 1905, and expire on the second Tuesday of January, 1909.

Provided, also, That nothing herein contained shall be construed to prevent the general assembly from changing the time of electing judges of the supreme court and from extending or abridging their terms of office as provided in Art. VI, section 15 of the constitution of this state.

The judge having the shortest time to serve, not holding his office by appointment or election to fill vacancy, shall be the chief justice.

Of the two judges whose terms of office expire upon the same day, the younger in years of the two judges shall be the chief justice during the next to the last year of his term of office and the elder of the two judges shall be chief justice during the last year of his term of office.

The chief justice shall preside at all sessions of the court en banc, and, in case of his absence, then the judge present who would next be entitled to become chief justice shall preside.

Until otherwise provided by law, the supreme court shall have power to review the judgments and proceedings of inferior courts, in such instances and in such manner as was provided by law previous to the act establishing the court of appeals.

[Amended section as proposed by L. '03, p. 149. Adopted November 8, 1904. The original section read: "The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold his office

for the term of three years, one for the term of six years, and one for the term of nine years. The lot shall be drawn by the judges, who shall for that purpose assemble at the seat of government; and they shall cause the result thereof to be certified to the secretary of the territory, and filed in his office. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief justice, and shall preside at all terms of the supreme court, and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead."]

For writ of error from the supreme court, see code, §425.

**Sec. 9. Clerk supreme court.**—There shall be a clerk of the supreme court, who shall be appointed by the judges thereof, and shall hold his office during the pleasure of said judges, and whose duties and emoluments shall be as prescribed by law and by the rules of the supreme court.

For clerk of supreme court, see §23, c. 46, Vol. 2, 1935 C. S. A.

**Sec. 10. Qualifications of judges.**—No person shall be eligible to the office of judge of the supreme court unless he be learned in the law; be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this state or territory at least two years next preceding his election.

#### District Courts.

**Sec. 11. Jurisdiction.**—The district courts shall have original jurisdiction of all causes both at law and in equity, and such appellate jurisdiction as may be conferred by law. They shall have original jurisdiction to determine all controversies upon relation of any person on behalf of the people, concerning the rights, duties and liabilities of railroad, telegraph or toll-road companies or corporations.

**Sec. 12. Judicial districts—Term of judges.**—The state shall be divided into judicial districts, in each of which there shall be elected by the electors thereof, one or more judges of the district court therein, as may be provided by law, whose term of office shall be six years; the judges of the district courts may hold courts for each other, and shall do so when required by law, and the general assembly may by law provide for the selection or election of a suitable person to preside in the trial of causes in special cases.

[Amended section as proposed by L. '85, p. 145. Adopted November 2, 1886. The original section read: "The state shall be divided into judicial districts, in each of which there shall be elected by the electors thereof, one judge of the district court therein, whose term of office shall be six years. The judges of the district courts may hold courts for each other, and shall do so when required by law."]

See §§98-100, c. 46, Vol. 2, 1935 C. S. A.

**Sec. 13. Judicial districts.**—Until otherwise provided by law, said districts shall be four in number, and constituted as follows, viz.:

**First District**—The counties of Boulder, Jefferson, Gilpin, Clear Creek, Summit and Grand.

**Second District**—The counties of Arapahoe, Douglas, Elbert, Weld and Larimer.

**Third District**—The counties of Park, El Paso, Fremont, Pueblo, Bent, Las Animas and Huerfano.

**Fourth District**—The counties of Costilla, Conejos, Rio Grande, San Juan, La Plata, Hinsdale, Saguache and Lake.

For present law on the subject of judicial districts, see §49 et seq., c. 46, Vol. 2, 1935 C. S. A.

**Sec. 14. Number of districts increased or diminished.**—The general assembly may (whenever two-thirds of the members of each house concur therein), increase or diminish the number of judges for any district, or increase or diminish the number of judicial districts and the judges thereof. Such districts shall be formed of compact territory, and be bounded by county lines; but such increase, diminution, or change in the boundaries of a district shall not work the removal of any judge from his office during the time for which he shall have been elected or appointed.

[Amended section as proposed by L. '85, p. 145. Adopted November 2, 1886. The original section read: "The general assembly may after the year eighteen hundred and eighty (whenever two-thirds of the members of each house shall concur therein), but not oftener than once in six years, increase the number of the judicial districts and the judges thereof; such districts shall be formed of compact territory and bounded by county lines, but such increase or change in the boundaries of a district shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed."']

A concurrence of two-thirds is not required to change a county from one district to another. Senate Resolution No. 9, in re. 54 C. 429, 131 P. 257.

**Sec. 15. Election of judges—Term.**—The judges of the district court first elected shall be chosen at the first general election. The general assembly may provide that after the year eighteen hundred and seventy-eight, the election of the judges of the supreme, district and county courts, and the district attorneys, or any of them, shall be on a different day from that on which an election is held for any other purpose, and for that purpose may extend or abridge the term of office of any such officers then holding, but not in any case more than six months. Until otherwise provided by law, such officers shall be elected at the time of holding the general elections. The terms of office of all judges of the district court, elected in the several districts throughout the state, shall expire on the same day; and the terms of office of the district attorneys elected in the several districts throughout the state shall, in like manner expire on the same day.

**Sec. 16. Qualifications of district judges.**—No person shall be eligible to the office of district judge unless he be learned in the law, be at least thirty years old, and a citizen of the United States, nor unless he shall have resided in the state or territory at least two years next preceding his election, nor unless he shall, at the time of his election, be an elector within the judicial district for which he is elected; Provided, That at the first election, any person of the requisite age and learning, and who is an elector of the territory of Colorado, under the laws thereof, at the time of the adoption of this constitution, shall be eligible to the office of judge of the district court of the judicial district within which he is an elector.

**Sec. 17. Terms of court.**—The time of holding courts within the said district, shall be as provided by law, but at least one term of the district court shall be held annually in each county, except in such counties as may be attached, for judicial purposes, to another county wherein such courts are so held. This shall not be construed to prevent the holding of special terms under such regulations as may be provided by law.

For terms of court, see §51 et seq., c. 46, Vol. 2, 1935 C. S. A.

**Sec. 18. Compensation of judges.**—The judges of the supreme and district court shall each receive such salary as may be provided by law; and no such judge shall receive any other compensation, perquisite or emolument for, or on account of, his office, in any form whatever, nor act as attorney or counsellor at law.

**Sec. 19. Clerk of district court.**—There shall be a clerk of the district court in each county wherein a term is held, who shall be appointed by the judge of the district, to hold his office during the pleasure of the judge. His duties and compensation shall be as provided by law, and regulated by the rules of the court.

For salaries of clerks of the district courts, see §67, c. 66, Vol. 3, 1935 C. S. A.

Clerks of courts of record may acknowledge conveyances, §23, c. 40, Vol. 2, 1935 C. S. A.

Bonds of clerks of district courts, §1; where filed, §3; certified copy filed in office of county clerk, §5, c. 117, Vol. 4, 1935 C. S. A.

**Sec. 20. Judges may fix terms until, etc.**—Until the general assembly shall provide by law for fixing the terms of the courts aforesaid, the judges of the supreme and district courts, respectively, shall fix the terms thereof.

#### District Attorney.

**Sec. 21. Election — Term — Salary — Qualification.**—There shall be elected by the qualified electors of each judicial district, at the general election in the year nineteen hundred and four, and every four years thereafter, a district attorney for such district, whose term of office shall be four years, and whose duties and salary or compensation, either from the fees or emoluments of his office or from the general county fund, as shall be provided by law.

No person shall be eligible to the office of district attorney who shall not, at the time of his election, be at least twenty-five years of age and possess all the qualifications of judges of the district courts, as provided in this article. The term of office of the district attorneys serving in the several districts, at the time of the adoption of this amendment is hereby extended to the second Tuesday of January, in the year A. D. 1905.

[Amended section as proposed by L. '01, p. 110. Adopted November 4, 1902. The original section read: "There shall be elected by the qualified electors of each judicial district, at each regular election for judges of the supreme court, a district attorney for such district, whose term of office shall be three years, and whose duties and compensation shall be as provided by law. No person shall be eligible to the office of district attorney who shall not, at the time of his election, be at least twenty-five years of age, and possesses all the other qualifications for judges of district courts as prescribed in this article."]

For salaries of district attorneys, see §92, c. 66, Vol. 3, 1935 C. S. A.

#### County Court.

**Sec. 22. Judge—Election—Term—Salary.**—There shall be elected at the general election in each organized county in the year nineteen hundred and four, and every four years thereafter, a county judge, who shall be judge of the county court of said county, whose term of office shall be four years, and who shall be paid such salary or compensation, either from the fees and emoluments of his office or from the general county fund, as shall be provided by law.

The term of office of the county judges serving at the time of the adoption of this amendment is hereby extended to the second Tuesday of January, in the year A. D. 1905.

[Amended section as proposed by L. '01, p. 110. Adopted November 4, 1902. The original section read: "There shall be elected at the general election in each organized county, in the year eighteen hundred and seventy-seven, and every three years thereafter, except as otherwise provided in this article, a county judge, who shall be judge of the county court of said county, whose term of office shall be three years, and whose compensation shall be as may be provided by law."]

For salaries of county judges, see §68, c. 66, Vol. 3, 1935 C. S. A.

The county judge is a state and not a county officer. *Dixon v. People*, ex rel, 53 C. 527. 127 P. 930.

**Sec. 23. Court of record—Jurisdiction.**—County courts shall be courts of record and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointments of guardians, conservators and administrators, and settlement of their accounts, and such other civil and criminal jurisdiction as may be conferred by law; Provided, Such courts shall not have jurisdiction in any case where the debt, damage, or claim or value of property involved shall exceed two thousand dollars, except in cases relating to the estates of deceased persons.

**Appeals—Writs of error.**—Appeals may be taken from county to district courts, or to the supreme court, in such cases and in such manner as may be prescribed by law. Writs of error shall lie from the supreme court to every final judgment of the county court. No appeal shall lie to the district court from any judgment given upon an appeal from a justice of the peace.

For jurisdiction of county courts in criminal cases, see §170; in civil cases, §156, c. 46, Vol. 2, 1935 C. S. A.

For writs of error from the supreme court, see code, §425.

For appeals to district courts, see §165, c. 46, Vol. 2, 1935 C. S. A.

#### **Criminal Court.**

**Sec. 24. In what counties—Jurisdiction.**—The general assembly shall have power to create and establish a criminal court in each county having a population exceeding fifteen thousand, which court may have concurrent jurisdiction with the district courts in all criminal cases not capital; the terms of such courts to be as provided by law.

#### **Justices of the Peace.**

**Sec. 25. Jurisdiction.**—Justices of the peace shall have such jurisdiction as may be conferred by law; but they shall not have jurisdiction of any case wherein the value of the property or the amount in controversy exceeds the sum of three hundred dollars, nor where the boundaries or title to real property shall be called in question.

For jurisdiction of justices of the peace, see §7, c. 96, Vol. 3, 1935 C. S. A.

A justice is a county and not a state officer. *Thrush v. People*, 53 C. 544; 127 P. 937.

#### **Police Magistrates.**

**Sec. 26. How created—Jurisdiction.**—The general assembly shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary or expedient, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively.

For police courts, see §1 et seq., c. 127, Vol. 4, 1935 C. S. A.

## Miscellaneous.

**Sec. 27. Judges report defects in laws—Governor transmit.**—The judges of courts of record inferior to the supreme court shall on or before the first day in July, in each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their knowledge and experience may suggest, and the judges of the supreme court shall, on or before the first day of December of each year, report in writing to the governor, to be by him transmitted to the general assembly, together with his message, such defects and omissions in the constitution and laws as they may find to exist, together with appropriate bills for curing the same.

**Sec. 28. Laws relating to courts—Uniform.**—All laws relating to courts shall be general and of uniform operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgment and decrees of such courts severally shall be uniform.

**Sec. 29. Where officers must reside—Vacancies.**—All officers provided for in this article, excepting judges of the supreme court, shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies occurring in any of the offices provided for in this article shall be filled by appointment as follows: Of judges of the supreme and district courts, by the governor; of district attorneys, by the judge of the court of the district for which such attorney was elected; and of all other judicial officers, by the board of county commissioners of the county wherein the vacancy occurs. Judges of the supreme, district and county courts appointed under the provisions of this section shall hold office until next general election and until their successors elected thereat shall be duly qualified.

[Amended section as proposed by G. L. '77, p. 132. While there is no record of the vote on this amendment, it is supposed to have been adopted October 1, 1878. The original section read: "All officers provided for in this article, excepting judges of the supreme court, shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in elective offices shall be filled by election, but when the unexpired term does not exceed one year, the vacancy shall be filled by appointment as follows: Of judges of the supreme and district courts by the governor; of district attorneys, by the judge of the court to which the office appertains, and of all other judicial officers by the board of county commissioners of the county where the vacancy occurs."]

**Sec. 30. Process—Run in name of people.**—All process shall run in the name of "The People of the State of Colorado"; all prosecutions shall be carried on in the name and by the authority of "The People of the State of Colorado," and conclude, "against the peace and dignity of the same."

## ARTICLE VII.

## SUFFRAGE AND ELECTIONS.

**Section 1. Qualifications of elector.**—Every person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections: He or she shall be a citizen of the United States,

and shall have resided in the state twelve months immediately preceding the election at which he offers to vote, and in the county, city, town, ward or precinct, such time as may be prescribed by law.

[Amended section as proposed by L. '01, p. 107. Adopted November 4, 1902. The original section read: "Every male person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

"First—He shall be a citizen of the United States, or not being a citizen of the United States, he shall have declared his intention, according to law, to become such citizen, not less than four months before he offers to vote.

"Second—He shall have resided in the state six months immediately preceding the election at which he offers to vote, and in county, city, town, ward or precinct, such time as may be prescribed by law. Provided, That no person shall be denied the right to vote at any school district election, nor to hold any school district office on account of sex."]

For qualifications of electors, see §12, c. 59, Vol. 3, 1935 C. S. A.

**Sec. 2. Suffrage to women.**—The general assembly shall at the first session thereof, and may at any subsequent session enact laws to extend the right of suffrage to women of lawful age and otherwise qualified according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

For the statute under the above provision, and its ratification, see §13, c. 59, Vol. 3, 1935 C. S. A.

For right of women to vote, see nineteenth amendment to Const. U. S.

**Sec. 3. Educational qualifications of elector.**—The general assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety (1890) and no qualified elector shall be thereby disqualified.

**Sec. 4. When residence does not change.**—For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poorhouse or other asylum, nor while confined in public prison.

For the statute under the above provision, see §15, c. 59, Vol. 3, 1935 C. S. A.

**Sec. 5. Privilege of voters.**—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. 6. Electors only eligible to office.**—No person except a qualified elector shall be elected or appointed to any civil or military office in the state.

**Sec. 7. General election.**—The general election shall be held on the first Tuesday of October, in the years of our Lord eighteen hundred and seventy-six, eighteen hundred and seventy-seven, and eighteen hundred and seventy-eight, and annually thereafter on such day as may be prescribed by law.

For general election, see §1, c. 59, Vol. 3, 1935 C. S. A.

**Sec. 8. Elections by ballot or voting machine.**—All elections by the people shall be by ballot, and in case paper ballots are required to be used, every ballot 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 inquire or disclose how any elector shall have voted. In all cases of contested election in which paper ballots are required to be used, the ballots cast may be counted and compared with the list of voters, and examined under such safeguards and regulations as may be provided by law. Nothing in this section, however, shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election, provided that secrecy in voting be preserved.

When the governing body of any county, city, city and county or town, including the city and county of Denver, and any city, city and county or town which may be governed by the provisions of special charter, shall adopt and purchase a voting machine, or voting machines, such governing body may provide for the payment therefor by the issuance of interest-bearing bonds, certificates of indebtedness or other obligations, which shall be a charge upon such city, city and county, or town; such bonds, certificates or other obligations may be made payable at such time or times, not exceeding ten years from date of issue, as may be determined, but shall not be issued or sold at less than par.

[Amended section as proposed by L. '05, p. 163. Adopted November 6, 1906. The original section read: "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 be 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 inquire or disclose how an elector shall have voted. 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."]'

For contests of election, see §262 et seq., c. 59, Vol. 3, 1935 C. S. A.

**Sec. 9. No privilege to witness in election trial.**—In trials of contested elections, and for offenses arising under the election law, no person shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceeding; except for perjury in giving such testimony.

See §290, c. 59, Vol. 3, 1935 C. S. A.

For perjury, see §142, c. 48, Vol. 2, 1935 C. S. A.

**Sec. 10. Disfranchisement during imprisonment.**—No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

For the statute hereunder, see §14, c. 59, Vol. 3, 1935 C. S. A.

**Sec. 11. Purity of elections.**—The general assembly shall pass laws to secure the purity of elections, and guard against abuses of the elective franchise.

For offenses in connection with elections, see §314 et seq., c. 59, Vol. 3, 1935 C. S. A.



**Sec. 12. Election contests—By whom tried.**—The general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests, not herein provided for, shall be tried, and regulate the manner of trial, and all matters incident thereto, but no such law shall apply to any contest arising out of an election held before its passage.

For contests of elections, see §262 et seq., c. 59, Vol. 3, 1935 C. S. A.

## ARTICLE VIII.

### STATE INSTITUTIONS.

**Section 1. Established and supported by state.**—Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the state, in such manner as may be prescribed by law.

**Sec. 2. Seat of government—How located.**—The general assembly shall have no power to change or to locate the seat of government of the state, but shall at its first session subsequent to the year of our Lord one thousand eight hundred and eighty provide by law for submitting the question of the permanent location of the seat of government to the qualified electors of the state, at the general election then next ensuing, and a majority of all the votes upon said question cast at said election shall be necessary to determine the location thereof. Said general assembly shall also provide that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the state, at the next general election; Provided, That until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at the city of Denver.

The vote was taken November 8, 1831, and Denver was permanently located as the seat of government.

**Sec. 3. Seat of government—How changed.**—When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the state voting on that question, at a general election, at which the question of location of the seat of government shall have been submitted by the general assembly.

**Sec. 4. Appropriation for capitol building.**—The general assembly shall make no appropriation or expenditure for capitol buildings or grounds, until the seat of government shall have been permanently located as herein provided.

**Sec. 5. State institutions—Property—Medical school.**—“The following educational institutions, to-wit: the University at Boulder, the Agricultural College at Fort Collins, the School of Mines at Golden, and the Institute for the Education of Mutes (which shall hereafter be known as Colo-

rado School for Deaf and Blind), at Colorado Springs, are hereby declared to be institutions of the State of Colorado, and the management thereof subject to the control of the State, under the provisions of the constitution, and such laws and regulations as the general assembly may provide, and the location of said institutions, as well as all gifts, grants and appropriations of money and property, real and personal, heretofore made to said several institutions, are hereby confirmed to the use and benefit of the same respectively; Provided, This section shall not apply to any institution, the property, real or personal, of which is now vested in the trustees thereof, until such property to be transferred by proper conveyance together with the control thereof, to the officers provided for the management of said institutions by this constitution or by law; And, provided further, that the Regents of the University may whenever in their judgment the needs of the institution demand such action, establish, maintain and conduct all or any part of the departments of medicine, dentistry, and pharmacy of the University, at Denver; And provided, further, that nothing in this section shall be construed to prevent state educational institutions from giving temporary lecture courses, commonly called 'University Extension Work' and 'Farmers' Institute and Short Courses,' in any part of the state, or conducting class excursions for the purpose of investigation and study."

For state educational institutions; election of regents of university; oath; see c. 169, Vol. 4, 1935 C. S. A.

The original section fixed the location of these institutions beyond the power of change, except by constitutional amendment. Senate Resolution as to State Institutions, in re, 9 C. 626, 21 P. 472.

## ARTICLE IX.

### EDUCATION.

**Section 1. Supervision of schools—Board of education.**—The general supervision of the public schools of the state shall be vested in a board of education, whose powers and duties shall be prescribed by law; the superintendent of public instruction, the secretary of state and attorney general shall constitute the board of which the superintendent of public instruction shall be president.

For state board of education, see §§1-2, c. 146, Vol. 4, 1935 C. S. A.

For act to abolish said board, see c. 37, L. '33, or §38, c. 3, Vol. 2, 1935 C. S. A.

**Sec. 2. Establishment and maintenance of public schools.**—The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of six and twenty-one years, may be educated gratuitously. One or more public schools shall be maintained in each school district within the state, at least three months in each year; any school district failing to have such school shall not be entitled to receive any portion of the school fund for that year.

The above is not a limitation on the power of the legislature to provide free schools for children under the age of six years. Kindergarten Schools, in re, 18 C. 234, 32 P. 422.

**Sec. 3. School fund inviolate.**—The public school fund of the state shall forever remain inviolate and intact; the interest thereon, only, shall be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated, except as herein provided. The state treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The state shall supply all losses thereof that may in any manner occur.

**Sec. 4. County treasurer collect and disburse.**—Each county treasurer shall collect all school funds belonging to his county, and the several school districts therein, and disburse the same to the proper districts upon warrants drawn by the county superintendent, or by the proper district authorities, as may be provided by law.

**Sec. 5. Of what school fund consists.**—The public school fund of the state shall consist of the proceeds of such lands as have heretofore been, or may hereafter, be granted to the state by the general government for educational purposes; all estates that may escheat to the state; also all other grants, gifts or devises that may be made to this state for educational purposes.

**Sec. 6. County superintendent of schools.**—There shall be a county superintendent of schools in each county, whose term of office shall be two years, and whose duties, qualifications and compensation shall be prescribed by law. He shall be ex officio commissioner of lands within his county, and shall discharge the duties of said office under the direction of the state board of land commissioners, as directed by law.

For duties of county superintendents, see §20, c. 146, Vol. 4, 1935 C. S. A.

**Sec. 7. Aid to private schools, churches, etc., forbidden.**—Neither the general assembly, nor any county, city, town, township, school district or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money or other personal property, ever be made by the state, or any such public corporation, to any church, or for any sectarian purpose.

**Sec. 8. Religious test and race discrimination forbidden.**—Sectarian tenets.—No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as a teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

**Sec. 9. State board of land commissioners.**—The state board of land commissioners shall be composed of three (3) persons to be appointed by the governor, with the consent of the senate, who shall have the direction, control and disposition of the public lands of the state under such regulations as are and may be prescribed by law, one of which persons shall at the time of his appointment be designated as president of the board and whose office shall expire on the second Tuesday of January, 1917, one of which persons shall at the time of his appointment be designated as register of the board and whose term of office shall expire on the second Tuesday of January, 1915, and the third member of said board shall at the time of his appointment be designated as the engineer of the board and shall always be professionally a civil engineer, who for at least five (5) years, has been actively engaged in the practice of his profession and whose term of office shall expire on the second Tuesday of January, 1913; and the successor and successors of the first members of the board shall each be appointed for the terms of six (6) years.

On the adoption of this amendment by the electors of this state, it shall not go into full force and effect until the second Tuesday of January, 1911.

The members of the board shall each receive a salary of three thousand dollars (\$3,000) per annum until otherwise provided by law; but the salary of each member of this board is to be paid out of the income of the said state board of land commissioners.

[Amended section as proposed by L. '09, p. 322. Adopted November 8, 1910. The original section read: "The governor, superintendent of public instruction, secretary of state and attorney-general, shall constitute the state board of land commissioners who shall have the direction, control and disposition of the public lands of the state under such regulations as may be prescribed by law."]

The "income" referred to in the last paragraph of this section does not include moneys arising from sales, royalties, rentals, or interest, but includes only the fees, authorized to be collected under the provisions of §5172, R. S. '08. (See §58, c. 134, Vol. 4, 1935 C. S. A.) Salaries of Commissioners and Employees of State Land Board, in re, 55 C. 105, 133 P. 140.

**Sec. 10. Selection and control of public lands.**—It shall be the duty of the state board of land commissioners to provide for the location, protection, sale or other disposition of all the lands heretofore, or which may hereafter be granted to the state by the general government, under such regulations as may be prescribed by law; and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the general assembly granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The general assembly shall, at the earliest practicable period, provide by law that the several grants of land made by congress to the state shall be judiciously located and carefully preserved and held in trust subject to disposal, for the use and benefit of the respective objects for which said grants of land were made, and the general assembly shall provide for the sale of said lands from time to time; and for the faithful application of the proceeds thereof in accordance with the terms of said grants.

**Sec. 11. Compulsory education.**—The general assembly may require, by law, that every child of sufficient mental and physical ability, shall attend the public school during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

For compulsory education acts, see §263 et seq., c. 146, Vol. 4, 1935 C. S. A.

**Sec. 12. Regents of university.**—There shall be elected by the qualified electors of the state, at the first general election under this constitution, six regents of the university, who shall immediately after their election be so classified by lot, that two shall hold their office for the term of two years, two for four years and two for six years; and every two years after the first election there shall be elected two regents of the University, whose term of office shall be six years. The regents thus elected, and their successors, shall constitute a body corporate to be known by the name and style of "The Regents of the University of Colorado."

**Sec. 13. President of university.**—The regents of the university shall, at their first meeting, or as soon thereafter as practicable, elect a president of the university, who shall hold his office until removed by the board of regents for cause; he shall be ex officio a member of the board, with the privilege of speaking, but not of voting, except in cases of a tie; he shall preside at the meetings of the board, and be the principal executive officer of the university, and a member of the faculty thereof.

**Sec. 14. Control of university.**—The board of regents shall have the general supervision of the university, and the exclusive control and direction of all funds of, and appropriations to, the university.

**Sec. 15. School districts—Board of education.**—The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

**Sec. 16. Text books in public schools.**—Neither the general assembly nor the state board of education shall have power to prescribe text books to be used in the public schools.

## ARTICLE X.

### REVENUE.

**Section 1. Fiscal year.**—The fiscal year shall commence on the first day of October in each year, unless otherwise provided by law.

**Sec. 2. Tax provided for state expenses.**—The general assembly shall provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of the state government for each fiscal year.

**Sec. 3. Uniform taxation—Individual exemption.**—All taxes shall be uniform upon the same class of subjects within the territorial limits of

the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal; Provided, That the personal property of every person being the head of a family to the value of \$200 shall be exempt from taxation. Ditches, canals and flumes owned and used by individuals or corporations, for irrigating land owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purposes.

[Amended section as proposed by L. '03, p. 152. Adopted November 8, 1904. The original section read: "All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal; Provided, That mines and mining claims bearing gold, silver and other precious metals (except the net proceeds and surface improvements thereof) shall be exempt from taxation for the period of ten years from the date of the adoption of this constitution, and thereafter may be taxed as provided by law. Ditches, canals and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof shall not be separately taxed, so long as they shall be owned and used exclusively for such purpose."]

**Sec. 4. Public property exempt.**—The property, real and personal, of the state, counties, cities, towns and other municipal corporations and public libraries, shall be exempt from taxation.

**Sec. 5. Schools, churches, etc., exempt.**—Property, real and personal, that is used solely and exclusively for religious worship, for schools or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

[Sec. 5. Referred by general assembly. Adopted general election November 3, 1936.]

The charitable purpose need not be public in order to secure exemption. *Horton v. Colorado Springs Masonic Bldg. Soc.*, 64 C. 529, 173 P. 61.

Exemptions under statute, see §22, c. 142, Vol. 4, 1935 C. S. A.

**Sec. 6. Other exemptions void—Motor vehicles.**—All laws exempting from taxation, property other than that hereinbefore mentioned, shall be void; Provided, However, That the general assembly shall enact laws classifying motor vehicles, trailers and semi-trailers and requiring the payment of a graduated annual specific ownership tax thereon, which said tax shall be in addition to, and payable to the proper county officer at the same time as state registration or license fees.

Said graduated annual specific ownership tax shall be in lieu of all ad valorem taxes upon such property, and shall be distributed, apportioned, credited and paid over to the state and its political subdivisions as provided by law with reference to ad valorem taxes; Provided, Further, That such laws shall not exempt from ad valorem taxation motor vehicles, trailers and semi-trailers in process of manufacture, or held in storage, or which constitute the stock of manufacturers, or distributors thereof or of dealers therein.

[Sec. 6. Initiated by petition. Adopted general election November 3, 1936.]

**Sec. 7. Municipal taxation.**—The general assembly shall not impose taxes for the purposes of any county, city, town or other municipal cor-

poration, but may by law, vest in the corporate authorities thereof respectively, the power to assess and collect taxes for all purposes of such corporation.

**Sec. 8. No county, city, town be released.**—No county, city, town or other municipal corporation, 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.

**Sec. 9. Relinquishment of power to tax corporations forbidden.**—The power to tax corporations and corporate property, real and personal, shall never be relinquished or suspended.

**Sec. 10. Corporations subject to tax.**—All 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 within the territorial limits of the authority levying the tax.

**Sec. 11. Maximum rate of taxation.**—The rate of taxation on property, for state purposes, shall never exceed four mills on each dollar of valuation; Provided, However, That in the discretion of the general assembly an additional levy of not to exceed one mill on each dollar of valuation may from time to time be authorized for the erection of additional buildings at, and for the use, benefit, maintenance, and support of the state educational institutions; Provided, Further, That the rate of taxation on property for all state purposes, including the additional levy herein provided for shall never exceed five mills on each dollar of valuation, unless otherwise provided in the constitution.

[Amended section as proposed by initiative petition, and adopted November 2, 1920. The original section read: "The rate of taxation on property for state purposes, shall never exceed six mills on each dollar of valuation, and whenever the taxable property within the state shall amount to one hundred million dollars, the rate shall not exceed four mills on each dollar of valuation; and whenever the taxable property within the state shall amount to three hundred million dollars, the rate shall never thereafter exceed two mills on each dollar of valuation unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the state as in the year next preceding such election, shall have paid a property tax assessed to them within the state, and a majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law."]

[A former amendment, proposed by L. '91, p. 89, and adopted November 8, 1892, read as follows: "The rate of taxation on property, for state purposes, shall never exceed four mills on each dollar of valuation."]

**Sec. 12. Report of state treasurer.**—The treasurer shall keep a separate account of each fund in his hands; and shall, at the end of each quarter of the fiscal year, report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place where the same are kept or deposited, and the number and amount of every warrant received, and the number and amount of every warrant paid therefrom during the quarter. Swearing falsely to any such report shall be deemed perjury. The governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government and otherwise as the general assembly may require. The general assembly may provide by law further regulations for

the safekeeping and management of the public funds in the hands of the treasurer, but, notwithstanding any such regulation, the treasurer and his sureties shall in all cases be held responsible therefor.

For state funds, see §73 et seq., c. 153, Vol. 4, 1935 C. S. A.

**Sec. 13. Making profit on public money—Felony.**—The making of profit, directly or indirectly, 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.

See §§264-265, c. 48, Vol. 2, 1935 C. S. A.

**Sec. 14. Private property not liable for public debt.**—Private property shall not be taken or sold for the payment of the corporate debt of municipal corporations.

**Sec. 15. Boards of equalization—Duties.**—There shall be a board of equalization for the state, consisting of the governor, state auditor, state treasurer, secretary of state and attorney general. The duty of the said board of equalization shall be to adjust, equalize, raise or lower the valuation of real and personal property of the several counties of the state, and the valuation of any item or items of the various classes of such property.

There shall be in each county of this state a county board of equalization, consisting of the board of county commissioners of said county. The duty of the county board of equalization shall be to adjust, equalize, raise or lower the valuation of real and personal property within their respective counties, subject to revision, change and amendment by the state board of equalization. The state board of equalization and the county board of equalization shall equalize to the end that all taxable property in the state shall be assessed at its full cash value and also perform such other duties as may be prescribed by law; Provided, However, That the state board of equalization shall have no power of original assessment.

[Amended section as proposed by L. '13, p. 215. Adopted November 3, 1914. The original section read: "There shall be a state board of equalization, consisting of the governor, state auditor, state treasurer, secretary of state and attorney general, also, in each county of this state, a county board of equalization, consisting of the board of county commissioners of said county. The duty of the state board of equalization shall be to adjust and equalize the valuation of real and personal property among the several counties of the state. The duty of the county board of equalization shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each board shall also perform such other duties as may be prescribed by law."]

For state board of equalization, see §107, c. 142, Vol. 4, 1935 C. S. A.

For county board of equalization, see §292, c. 142, Vol. 4, 1935 C. S. A.

For classes of appropriations, see §16, c. 153, Vol. 4, 1935 C. S. A.

In the absence of statutory requirement, the board of equalization may act on its own knowledge and judgment in fixing values, and its order is not invalid for failure to take testimony and have a hearing as to value. *People v. Pitcher*, 61 P. 149, 156 P. 812.

**Sec. 16. Appropriations not to exceed tax—Exceptions.**—No appropriation shall be made, nor any expenditure authorized by the general assembly, whereby the expenditure of the state, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the general assembly making



such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section eleven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war.

**Sec. 17. Income tax.**—The general assembly may levy income taxes, either graduated or proportional, or both graduated and proportional, for the support of the state, or any political subdivision thereof, or for public schools, and may, in the administration of an income tax law, provide for special classified or limited taxation or the exemption of tangible and intangible personal property.

[Sec. 17. Referred by general assembly. Adopted general election November 3, 1936. Designated as Sec. 17 although adopted after Sec. 18.]

**Sec. 18. Motor Vehicle Registration License Fees—Excise Taxes on Motor Fuels.**—On and after July 1, 1935, the proceeds from the imposition of any license, registration fee or other charge with respect to the operation of any motor vehicle upon any public highway in this state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel shall, except costs of administration, be used exclusively for the construction, maintenance, and supervision of the public highways of this state.

[Sec. 18. Initiated by petition. Adopted general election November 6, 1934.]

## ARTICLE XI.

### PUBLIC INDEBTEDNESS.

**Section 1. Pledging credit of state, county, etc., forbidden.**—Neither the state, nor any county, city, town, township or school district shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to, or in aid of, any person, company or corporation, public or private, for any amount, or for any purpose whatever; or become responsible for any debt, contract or liability of any person, company or corporation, public or private, in or out of the state.

**Sec. 2. No aid to corporations—No joint ownership by state, county, etc.**—Neither the state, nor any county, city, town, township, or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in any corporation or company, or a joint owner with any person, company or corporation, public or private, in or out of the state, except as to such ownership as may accrue to the state by escheat, or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the state, or to any county, city, town, township or school district, or to either or any of them, jointly with any person, company or corporation, by forfeiture or sale of real estate for non-payment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them, under execution in cases of fines, penalties or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public

moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

**Sec. 3. Public debt—Limit—Refunding bonds—Highway bonds.**—The state shall not contract any debt by loan in any form, except to provide for casual deficiencies of revenue, erect public buildings for the use of the state, suppress insurrection, defend the state, or, in time of war, assist in defending the United States; and the amount of debt contracted in any one year to provide for deficiencies of revenue, shall not exceed one-fourth of a mill on each dollar of valuation of taxable property within the state, and the aggregate amount of such debt shall not any time exceed three-fourths of a mill on each dollar of said valuation, until the valuation shall equal one hundred millions of dollars, and thereafter such debt shall not exceed one hundred thousand dollars; and the debt incurred in any one year for erection of public buildings shall not exceed one-half mill on each dollar of said valuation; and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars (except as provided in section five of this article), and in all cases the valuation in this section mentioned shall be that of the assessment last preceding the creation of said debt;

Provided, That in addition to the amount of debt that may be incurred as above, the state may contract a debt by loan for the purpose of paying the principal and accrued interest of all the outstanding warrants issued by this state during and for the years 1887, 1888, 1889, 1892, 1893, 1894 and 1897, said debt to be evidenced by registered coupon interest bearing funding bonds to an amount not exceeding \$2,115,000.00, or so much thereof as may be necessary to pay said warrants and interest thereon.

Said funding bonds shall be dated December 1, 1910, shall be payable at the option of the state of Colorado at any time after ten years from their date, shall be absolutely due and payable fifty (50) years after their date, and shall be of the denomination of one hundred dollars (\$100.00) each, or any multiple thereof. The interest on said bonds shall be payable semi-annually at the rate of three per cent per annum at the office of the state treasurer, or at some place in the city of New York, U. S. A., and the principal of said bonds shall be payable at the office of the state treasurer.

No such bonds shall be issued except at par and accrued interest, and upon the contemporaneous surrender and cancellation of a like amount of principal and interest of said warrants.

Said bonds to an amount equalling the principal of said warrants now held by the public school fund shall be registered by the state auditor and state treasurer in the name and for the benefit of and payable only to the said fund, and shall not be transferable.

And all such bonds to an amount equalling the interest on said warrants now held in the school fund shall be sold by the state treasurer at not less than par and accrued interest, and the proceeds thereof paid into the school fund and distributed to the several counties and school districts

of the state for school purposes, in the proportions and in the manner required by law.

And, Provided, further, that, in addition to the amount of debt that may be incurred as above, the state may contract a debt by loan for the purpose of creating a fund to be expended as provided by law, by the state highway commission for the construction and improvement of public highways in the state of Colorado; said debt to be evidenced by registered coupon interest-bearing bonds to an amount not exceeding five million dollars.

Said bonds, to an extent not exceeding two million dollars, shall be dated June first, 1921; not exceeding three million dollars, dated June first, 1922; and said bonds shall be payable at the option of the state of Colorado at any time after ten years from their respective dates, and shall be of the denomination of fifty dollars (\$50.00) each or any multiple thereof. The interest on said bonds shall be payable semi-annually at the rate of five per cent (5%) per annum, at the office of the state treasurer, or at some place in the city of New York, U. S. A., and the principal of said bonds shall be payable at the office of the state treasurer.

No such bonds shall be issued except at par and accrued interest.

Fifty per centum of the proceeds from the sales of said bonds shall be divided among the various counties of the state according to the mileage of state routes and state highways within said counties, and the remaining fifty per centum of the proceeds from the sale of said bonds shall be used by the state highway commission only to meet and accept Federal aid awarded to the state of Colorado by United States congressional acts.

And provided further, that, in addition to the amount of debt that may be incurred as above, the state may contract a debt by loan for the purpose of creating a fund to be expended as provided by law, by the State Highway Department, for the construction and improvement of public highways in the state of Colorado; said debt to be evidenced by registered, coupon, interest-bearing bonds to an amount not exceeding six million dollars.

Said bonds to an extent not exceeding One Million Five Hundred Thousand Dollars, shall be dated June first, 1923; not exceeding One Million Five Hundred Thousand Dollars shall be dated June first, 1924; not exceeding One Million Five Hundred Thousand Dollars shall be dated June first, 1925; not exceeding One Million Five Hundred Thousand Dollars shall be dated June first, 1926; said bonds shall be issued payable serially. The last maturing series of each issue shall be absolutely due and payable not exceeding twenty (20) years from and after the date thereof, and shall be of the denomination of One Hundred Dollars (\$100.00) each, or any multiple thereof. The interest on said bonds shall be payable semi-annually, at the rate of five per cent (5%) per annum, at the office of the state treasurer, or at some place in the city of New York, U. S. A., and the principal of said bonds shall be payable at the office of the state treasurer.

No such bonds shall be issued except at par and accrued interest.

The moneys, or so much thereof as shall be necessary, payable to the credit and account of the state highway fund from the proceeds of motor vehicle registration license fees, under chapter one hundred sixty-one (161) of the Session Laws of Colorado of the year 1919, and all acts amendatory or in substitution thereof, shall be applied to the payment of interest and principal of the bonds of the six million dollar authorized issue herein, but the revenues provided by said chapter to be credited to the account of the state highway fund shall never be diminished, until all bonds issued by virtue of this amendment shall have been paid off and redeemed; nothing herein, however, shall be construed to prevent the enactment of laws whereby the amount of revenue derivable from motor vehicle registration license fees and payable into the said fund shall be increased.

The general assembly shall, as by law provided, enact all such laws as may be necessary with reference to said bonds and with reference to carrying out the projects and purposes herein specified.

[Amended section as proposed by L. '19, p. 764. Adopted November 2, 1920. The original section read: "The state shall not contract any debt by loan in any form, except to provide for casual deficiencies of revenue, erect public buildings for use of the state, suppress insurrection, defend the state, or, in time of war, assist in defending the United States; and the amount of debt contracted in any one year to provide for deficiencies of revenue shall not exceed one-fourth of a mill on each dollar of valuation of taxable property within the state and the aggregate amount of such debt shall not at any time exceed three-fourths of a mill on each dollar of said valuation until the valuation shall equal one hundred millions of dollars, and thereafter such debt shall not exceed one hundred thousand dollars, and the debt incurred in any one year for erection of public buildings shall not exceed one-half mill on each dollar of said valuation, and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars (except as provided in section five of this article), and in all cases the valuation in this section mentioned shall be that of the assessment last preceding the creation of said debt."]

[A prior amendment, proposed by L. '09, p. 317, adopted November 8, 1910, read as follows: "The state shall not contract any debt by loan in any form, except to provide for casual deficiencies of revenue, erect public buildings for the use of the state, suppress insurrection, defend the state, or, in time of war, assist in defending the United States; and the amount of the debt contracted in any one year to provide for deficiencies of revenue, shall not exceed one-fourth of a mill on each dollar of taxable property within the state, and the aggregate amount of such debt shall not at any time exceed three-fourths of a mill on each dollar of said valuation, until the valuation shall equal one hundred millions of dollars, and thereafter such debt shall not exceed one hundred thousand dollars, and the debt incurred in any one year for erection of public buildings shall not exceed one-half mill on each dollar of said valuation; and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars (except as provided in section five of this article), and in all cases the value in this section mentioned shall be that of the assessment last preceding the creation of said debt;

Provided, That in addition to the amount of debt that may be incurred, as above, the state may contract a debt by loan for the purpose of paying the principal and accrued interest of all the outstanding warrants issued by this state during and for the years 1887, 1889, 1892, 1893, 1894, and 1897; said debt to be evidenced by registered coupon interest-bearing funding bonds to an amount not exceeding \$2,115,000.00, or so much thereof as may be necessary to pay said warrants and interest thereon.

Said funding bonds shall be dated December 1st, 1910, shall be payable at the option of the State of Colorado at any time after ten years from their date shall be absolutely due and payable fifty (50) years after their date, and shall be of the denomination of one hundred dollars (\$100.00) each, or any multiple thereof. The interest on said bonds shall be payable semi-annually at the rate of three per cent per annum at the office of the state treasurer, or at some place in the city of New York, U. S. A., and the principal of said bonds shall be payable at the office of the state treasurer.

No such bonds shall be issued except at par and accrued interest, and upon the contemporaneous surrender and cancellation of a like amount of principal and interest of said warrants.

Said bonds to an amount equaling the principal of said warrants now held by the public school fund shall be registered by the state auditor and state treasurer in the name and for the benefit of and payable only to the said fund, and shall not be transferable.

And all such bonds to an amount equaling the interest on said warrants now held in the school fund shall be sold by the state treasurer at not less than par and accrued

interest; and the proceeds thereof paid into the school fund, and distributed to the several counties and school districts of the state for school purposes, in the proportions and in the manner required by law.”]

As to the history of the above amendment see Post P. & P. Co. v. Shafroth, 53 C. 129, 124 P. 176.

**Sec. 4. Law creating debt.**—In no case shall any debt above mentioned in this article be created except by a law which shall be irrevocable, until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied, and provide for the levy of a tax sufficient to pay the interest on and extinguish the principal of such debt within the time limited by such law for the payment thereof, which in the case of debts contracted for the erection of public buildings and supplying deficiencies of revenue shall not be less than ten nor more than fifteen years, and the funds arising from the collection of any such tax shall not be applied to any other purpose than that provided in the law levying the same, and when the debt thereby created shall be paid or discharged, such tax shall cease and the balance, if any, to the credit of the fund shall immediately be placed to the credit of the general fund of the state.

**Sec. 5. Debt for public buildings—How created.**—A debt for the purpose of erecting public buildings may be created by law as provided for in section four of this article, not exceeding in the aggregate three mills on each dollar of said valuation; Provided, That before going into effect, such law shall be ratified by the vote of a majority of such qualified electors of the state as shall vote thereon at a general election under such regulations as the general assembly may prescribe.

**Sec. 6. County indebtedness—How created—Limit.**—No county shall contract any debt by loan in any form except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges; and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county following, to-wit: Counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof; counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof, and the aggregate amount of indebtedness of any county for all purposes, exclusive of debts contracted before the adoption of this constitution, shall not at any time exceed twice the amount above herein limited, unless when in manner provided by law, the question of incurring such debt shall, at a general election, be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a majority of those voting thereon shall vote in favor of incurring the debt; but the bonds, if any be issued therefor, shall not run less than ten years, and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned; Provided, That any county in this state which has an indebtedness outstanding, either in the form of warrants issued for purposes provided by law prior to December 31, A. D. 1886, or in

the form of funding bonds issued prior to such date for such warrants previously outstanding, or in the form of public building, road or bridge bonds outstanding at such date, may contract a debt by loan by the issuance of bonds for the purpose of liquidating such indebtedness, provided the question of issuing said bonds shall, at a general or special election called for that purpose, be submitted to the vote of such of the duly qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed in such county, and the majority of those voting thereon shall vote in favor of issuing the bonds. Such election shall be held in the manner prescribed by the laws of this state for the issuance of road, bridge and public building bonds, and the bonds authorized at such election shall be issued and provision made for their redemption in the same manner as provided in said law.

[Amended section as proposed by L. '87, p. 26. Adopted November 6, 1888. The original section read: "No county shall contract any debt by loan in any form, except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges, and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county, following, to-wit:

"Counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof.

"Counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof.

"And the aggregate amount of indebtedness of any county, for all purposes exclusive of debts contracted before the adoption of this constitution, shall not at any time exceed twice the amount above herein limited, unless when in manner provided by law, the question of incurring such debt shall at a general election be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a majority of those voting thereon shall vote in favor of incurring the debt; but the bonds, if any be issued therefor, shall not run less than ten years, and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned, Provided, That this rate shall not apply to counties having a valuation of less than one million of dollars."]

Laws for the issuance of road, bridge and public building bonds, §§194-198, c. 45, Vol. 2, 1935 C. S. A.

**Sec. 7. Debt for school buildings—How created.**—No debt by loan in any form shall be contracted by any school district for the purpose of erecting and furnishing school buildings, or purchasing grounds, unless the proposition to create such debt shall first be submitted to such qualified electors of the district as shall have paid a school tax therein, in the year next preceding such election, and a majority of those voting thereon shall vote in favor of incurring such debt.

**Sec. 8. City indebtedness created by ordinance.**—No city or town shall contract any debt by loan in any form, except by means of an ordinance, which shall be irrevocable, until the indebtedness therein provided for shall have been fully paid or discharged, specifying the purposes to which the funds to be raised shall be applied, and providing for the levy of a tax, not exceeding twelve (12) mills on each dollar of valuation of taxable property within such city or town sufficient to pay the annual interest and extinguish the principal of such debt within fifteen, but not less than ten years from the creation thereof, and such tax when collected shall be applied only to the purposes in such ordinance specified until the indebtedness shall be paid or discharged. But no such debt shall be created unless the question of incurring the same shall at a regular election for councilman, aldermen, or officers of such city or town be sub-

mitted to a vote of such qualified electors thereof as shall in the year next preceding have paid a property tax therein, and a majority of those voting on the question by ballot deposited in a separate ballotbox, shall vote in favor of creating such debt; but the aggregate amount of debt so created, together with the debt existing at the time of such election, shall not at any time exceed three per cent of the valuation last aforesaid. Debts contracted for supplying water to such city or town are excepted from the operation of this section. The valuation in this section mentioned shall be in all cases that of the assessment next preceding the last assessment before the adoption of such ordinance.

**Sec. 9. This article not affect prior obligations.**—Nothing contained in this article shall be so construed as to either impair or add to the obligation of any debt heretofore contracted by any county, city, town or school district, in accordance with the laws of Colorado territory, or prevent the contracting of any debt, or the issuing of bonds therefor in accordance with said laws upon any proposition for that purpose which may have been, according to said laws, submitted to a vote of the qualified electors of any county, city, town or school district before the day on which this constitution takes effect.

## ARTICLE XII.

### OFFICERS.

**Section 1. When office expires—Suspensions.**—Every person holding any civil office under the state or any municipality therein, shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified; but this shall not apply to members of the general assembly, nor to members of any board or assembly, two or more of whom are elected at the same time. The general assembly may, by law, provide for suspending any officer in his functions pending impeachment or prosecution for misconduct in office.

Where the treasurer of a third class county is ex officio public trustee, the change of such county from the second to the third class, wherein the public trustee is appointed by the governor, does not ipso facto remove the treasurer from the office of public trustee, but he may exercise the duties of the office until his successor qualifies. Clark v. Duvall, 61 C. 76, 156 P. 144.

**Sec. 2. Personal attention required.**—No person shall hold any office or employment of trust or profit, under the laws of the state or any ordinance of any municipality therein, without devoting his personal attention to the duties of the same.

**Sec. 3. Defaulting collector disqualified from office.**—No person who is now or hereafter may become a collector or receiver of public money, or the deputy or assistant of such collector or receiver, and who shall have become a defaulter in his office, shall be eligible to or assume the duties of any office of trust or profit in this state, under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all public moneys for which he may be accountable.

**Sec. 4. Embezzlement disqualifies from office.**—No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this state.

**Sec. 5. Investigation of state and county treasurers.**—The district court of each county shall, at each term thereof, specially give in charge to the grand jury, if there be one, the laws regulating the accountability of the county treasurer, and shall appoint a committee of such grand jury, or of other reputable persons not exceeding five, to investigate the official accounts and affairs of the treasurer of such county, and report to the court the condition thereof. The judge of the district court may appoint a like committee in vacation at any time, but not oftener than once in every three months. The district court of the county wherein the seat of government may be shall have the like power to appoint committees to investigate the official accounts and affairs of the state treasurer and the auditor of state.

For duties and accountability of county treasurer, see §142 et seq., c. 45, Vol. 2, 1935 C. S. A.

See also c. 72-73, L. '25, and c. 83, L. '27.

As to state treasurer and auditor, see §23 et seq., c. 156, Vol. 4, 1935 C. S. A.

**Sec. 6. Bribery of officers defined.**—Any civil officer or member of the general assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment or of personal advantage or promise thereof, for his vote, official influence or action, or for withholding the same, or with an understanding that his official influence or action shall be in any way influenced thereby, or who shall solicit or demand any such money or advantage, matter or thing aforesaid for another, as the consideration of his vote, official influence or action, or for withholding the same, or shall give or withhold his vote, official influence or action, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, or solicitation of bribery, as the case may be, within the meaning of this constitution, and shall incur the disabilities provided thereby for such offense and such additional punishment as is or shall be prescribed by law.

For bribery and solicitation of bribery, see §146 et seq., c. 48, Vol. 2, 1935 C. S. A.

**Sec. 7. Oath of members of general assembly.**—Every member of the general assembly shall before he enters upon his official duties take an oath or affirmation to support the constitution of the United States and of the state of Colorado, and to faithfully perform the duties of his office according to the best of his ability. This oath or affirmation shall be administered in the hall of the house to which the member shall have been elected.

**Sec. 8. Oath of civil officers.**—Every civil officer, except members of the general assembly and such inferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United



States and of the state of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.

**Sec. 9. Oaths—Where filed.**—Officers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

**Sec. 10. Refusal to qualify—Vacancy.**—If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

**Sec. 11. Vacancy—Term of officer elected to fill.**—The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

**Sec. 12. Duel—Disqualifies for office.**—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 the state.

**Sec. 13. Civil service—Apply merit system.**—Appointments and employments in and promotions to offices and places of trust and employment in the classified civil service of the state shall be made according to merit and fitness, to be ascertained by competitive tests of competence, the person ascertained to be the most fit and of the highest excellence to be first appointed. All appointees shall be qualified electors of the state of Colorado, except as to those offices or positions held by the civil service commission to require special training and technical qualifications, in which cases competitive tests need not be limited to qualified electors and may be held without the state.

The classified civil service of the state shall comprise all appointive public officers and employes and the places which they hold, except the following: Judges of courts of record and one stenographer of each judge, one clerk for each court of record, persons appointed to perform judicial functions, receivers, jurors, members of boards or commissions appointed by the governor and serving without pay, members of the state industrial commission, of the public utilities commission and of the state civil service commission, the governor's private secretary and three confidential employes of his office, appointees to fill vacancies in elective offices, one deputy of each elective officer, the position involving the duties incident at present to the position of that deputy of the secretary of state, known as deputy commissioner of labor and the incumbent thereof, officers and teachers in educational institutions not reformatory or charitable in character, all attorneys at law serving as such, and the officers and employes of the general assembly.

Persons in the classified service shall hold their respective positions during efficient service and shall be graded and compensated according to standards of efficient service which shall be the same for all persons

having like duties. They shall be removed or disciplined only upon written charges, which may be filed by the head of a department or by any citizen of the state, for failure to comply with such standards, or for the good of the service, to be finally and promptly determined by the commission upon inquiry and after an opportunity to be heard. No person shall be discharged for a political or a religious reason. In cases of emergency or for employment of an essentially temporary character, the commission may authorize temporary employment without a competitive test.

Laws shall be made to enforce the provisions of this section and to establish a state civil service commission to consist of three members who shall be appointed for overlapping terms by the governor alone and who shall be persons of known devotion to the merit system. The first three commissioners appointed hereunder shall hold for two, four and six years respectively. Thereafter the term of a commissioner shall be six years, except where an appointment is made to fill an unexpired term. A salary of not less than \$2,500 per annum shall be paid to each commissioner. The making and enforcement of rules to carry out the purposes of this amendment and of the laws enacted in pursuance hereof, the alteration and rescission of such rules, the conduct of all competitive tests, the determination of all removal or disciplinary cases, the standardization of all positions, the determination of standards of efficient service and the determination of the grades of all positions in the classified service shall be vested in the commission. No person in the classified service shall be paid until a certificate is furnished by the commission that the appointment has been made pursuant to law.

Adequate appropriations shall be made to carry out the purposes of this section and in the absence of such adequate appropriations the salaries and expenses of the commission shall be paid as are the salaries and expenses of the executive officers of the state government.

All persons holding positions in the classified service as herein defined when this section takes effect shall retain their positions until removed under the provisions of the laws enacted in pursuance hereof.

This section shall be self-executing.

[Added section as proposed by initiative petition, and adopted November 5, 1918.]  
For civil service act, see §1 et seq., c. 36, Vol. 2, 1935 C. S. A.

This section applies only to appointive state offices. *Chambers v. People*, 70 C. 496, 202 P. 1081.

Members of the state board of land commissioners created by Const., Art. IX, Sec. 9, are not included and were not intended to be included in the operation of the civil service amendment. *People v. Field*, 66 C. 367, 181 P. 526.

The words "holding positions" in the last paragraph of this section mean lawfully holding them. *People v. Chew*. 68 C. 158, 187 P. 513.

A district court bailiff is an officer of the court and not a state officer. *People v. Morley*, 67 C. 331, 184 P. 386.

The water commissioner is a state officer. *People v. Higgins*. 67 C. 441, 184 P. 365.

The governor has the right without any act of the legislature to appoint members to constitute a state civil service commission. *People ex rel. Clay v. Bradley*, 66 C. 186, 179 P. 871.

After the passage of this amendment the state inspector of coal mines held office under it and not for a definite term of four years, which period of appointment was prescribed by the statute under which he was originally appointed. *People v. Stong*. 67 C. 599, 189 P. 27.

## ARTICLE XIII.

## IMPEACHMENTS.

**Section 1. House impeach—Senate try—Conviction—When chief justice preside.**—The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

**Sec. 2. Who liable to impeachment—Judgment—No bar to prosecution.**—The governor and other state and judicial officers, except county judges and justices of the peace, shall be liable to impeachment for high crimes or misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit in the state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

**Sec. 3. Officers not subject to impeachment subject to removal.**—All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law.

## ARTICLE XIV.

## COUNTIES.

**Section 1. Counties of state.**—The several counties of the territory of Colorado as they now exist, are hereby declared to be counties of the state.

**Sec. 2. Removal of county seats.**—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 a majority of the qualified electors of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in four years, and no person shall vote on such proposition who shall not have resided in the county six months and in the election precinct ninety days next preceding such election.

For removal of county seats, see §98, c. 44, Vol. 2, 1935 C. S. A.

**Sec. 3. County—Striking off—Vote.**—No part of the territory of any county shall be stricken off and added to an adjoining county, without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off; nor unless a majority of all the qualified voters of said county voting on the question shall vote therefor.

This does not restrict the power of the legislature to create new counties from territory previously embraced within one or more existing counties. *Frost v. Pfeiffer*, 26 C. 343, 58 P. 147.

**Sec. 4. County—New shall pay proportion of debt.**—In all cases of the establishment of any new county, the new county shall be held to pay its ratable proportion of all then existing liabilities, of the county or counties from which such new county shall be formed.

**Sec. 5. County—Part stricken off shall pay proportion.**—When any part of a county is stricken off and attached to another county, the part stricken off shall be held to pay its ratable proportion of all then existing liabilities of the county from which it is taken.

#### County Officers.

**Sec. 6. County commissioners—Election—Term.**—In each county having a population of less than seventy thousand there shall be elected, for a term of four years each, three county commissioners who shall hold sessions for the transaction of county business as provided by law; any two of whom shall constitute a quorum for the transaction of business. Two of said commissioners shall be elected at the general election in the year nineteen hundred and four, and at the general election every four years thereafter; and the other one of said commissioners shall be elected at the general election in the year nineteen hundred and six, and at the general election every four years thereafter; Provided, That when the population of any county shall equal or exceed seventy thousand, the board of county commissioners may consist of five members, any three of whom shall constitute a quorum for the transaction of business. Three of said commissioners in said county shall be elected at the general election in the year nineteen hundred and four, and at the general election every four years thereafter; and the other two of said commissioners in such county shall be elected at the general election in the year nineteen hundred and six and every four years thereafter; and all of such commissioners shall be elected for the term of four years.

The term of office of the county commissioners in each county that expires in January, 1904, is hereby extended to the second Tuesday in January, A. D. 1905, and the term of office of the county commissioners that expires in January, 1906, is hereby extended to the second Tuesday in January, A. D. 1907; and in counties having a population of more than seventy thousand, the term of office of the commissioners that expire in 1904 shall be extended to the second Tuesday in January, 1905, and the term of office of the county commissioners that expire in 1906 is hereby extended to the second Tuesday in January, 1907. This section shall govern, except as hereafter otherwise expressly directed or permitted by constitutional enactment.

[Amended section as proposed by L. '01, p. 112. Adopted November 4, 1902. The original section read: "In each county there shall be elected for the term of three years, three county commissioners, who shall hold sessions for the transaction of county business as provided by law, any two of whom shall constitute a quorum for the transaction of business. One of said commissioners shall be elected on the first Tuesday in October, eighteen hundred and seventy-six, and every year thereafter one such officer shall be elected in each county, at the general election, for the term of three years; Provided, That when the population of any county shall exceed ten thousand, the board of county

commissioners may consist of five members, who shall be elected as provided by law, any three of whom shall constitute a quorum for the transaction of business.']

Although it is permitted under the above section to have five county commissioners in counties of 70,000 and upwards, by statute this right appears to be limited to counties exceeding 100,000. Nor is there a method pointed out by statute for making the increase in membership.

For county commissioners, see §10 et seq., c. 45, Vol. 2, 1935 C. S. A.

**Sec. 7. Officers' compensation.**—The compensation of all county and precinct officers shall be as provided by law.

**Sec. 8. County officers—Election—Term—Salary.**—There shall be elected in each county, at the same time at which members of the general assembly are elected, commencing in the year nineteen hundred and four, one county clerk, who shall be ex officio recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor; one county assessor; and one county attorney who may be elected, or appointed, as shall be provided by law; and such officers shall be paid such salary or compensation, either from the fees, perquisites and emoluments of their respective offices, or from the general county fund, as may be provided by law. The term of office of all such officials that expire in January, 1904, is hereby extended to the second Tuesday in January, A. D. 1905.

This section shall govern, except as hereafter otherwise expressly directed, or permitted by constitutional enactment.

[Amended section as proposed by L. '01, p. 112. Adopted November 4, 1902. The original section read: "There shall be elected in each county, on the first Tuesday in October, in the year eighteen hundred and seventy-seven, and every alternate year forever thereafter, one county clerk, who shall be ex officio recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor, and one county assessor."]

**Sec. 9. Vacancies—How filled.**—In case of a vacancy occurring in the office of county commissioner, the governor shall fill the same by appointment; and in case of a vacancy in any other county office, or in any precinct office, the board of county commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

**Sec. 10. Elector only eligible to office.**—No person shall be eligible to any county office unless he shall be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

**Sec. 11. Justices of the peace—Constables.**—There shall be elected at the same time at which members of the general assembly are elected, beginning with the year nineteen hundred and four, two justices of the peace and two constables in each precinct in each county, who shall hold their office for a term of two years; Provided, That in precincts containing fifty thousand (50,000) or more inhabitants, the number of justices and constables may be increased as provided by law. The term of offices of all justices of the peace that expires in January, 1904, is hereby extended to the second Tuesday in January, 1905. This section shall gov-

ern, except as hereafter otherwise expressly directed, or permitted by constitutional enactment.

[Amendment section as proposed by L. '01, p. 114. Adopted November 4, 1902. The original section read: "There shall, at the first election at which county officers are chosen, and annually thereafter, be elected in each precinct, one justice of the peace and one constable, who shall each hold his office for the term of two years; Provided, That in precincts containing five thousand or more inhabitants, the number of justices and constables may be increased as provided by law."]

Justices and constables, see c. 96, Vol. 3, 1935 C. S. A.

**Sec. 12. Other officers.**—The general assembly shall provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require; and their terms of office shall be as prescribed by law, not in any case to exceed two years.

**Sec. 13. Classification of cities and towns.**—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 powers of each class shall be defined by general laws, so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions.

For classification of cities and towns, see §48, c. 163, Vol. 4, 1935 C. S. A.

**Sec. 14. Incorporation of cities and towns.**—The general assembly shall also make provision, by general law, whereby any city, town or village, incorporated by any special or local law, may elect to become subject to and be governed by the general law relating to such corporations.

See §345 et seq., c. 163, Vol. 4, 1935 C. S. A.

**Sec. 15. Classifying counties as to fees.**—For the purpose of providing for and regulating the compensation of county and precinct officers, the general assembly shall, by law, classify the several counties of the state according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein, for services to be performed by them, respectively, and where salaries are provided, the same shall be payable only out of the fees actually collected in all cases where fees are prescribed. All fees, perquisites and emoluments above the amount of such salaries, shall be paid into the county treasury.

This section is modified as to salaries being paid from fees, by §8 of this article. For classification of counties for fees, salaries, see §§3-58, c. 66, Vol. 3, 1935 C. S. A.

By Art. 14, Sec. 8, county officers may be paid their salaries either out of their fees or out of the general county fund.

## ARTICLE XV.

### CORPORATIONS.

**Section 1. Unused charters of no validity.**—All existing charters or grants of special or exclusive privileges, under which the corporators or grantees shall not have organized and commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

**Sec. 2. What charters may be granted.**—No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are or may be under the control of the state; but the general assembly shall provide by general laws for the organization of corporations hereafter to be created.

For the general incorporation act, see c. 41, Vol. 2, 1935 C. S. A.

**Sec. 3. Power to revoke, alter or annul charter.**—The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the state, in such manner, however, that no injustice shall be done to the incorporators.

**Sec. 4. Railroads—Common carriers—Construction—Intersection.**—All railroads shall be public highways, and all railroad companies shall be common carriers. Any association or corporation organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this state, and to connect at the state line with railroads of other states and territories. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad.

**Sec. 5. Consolidation of parallel lines forbidden.**—No railroad corporation, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation owning or having under its control a parallel or competing line.

**Sec. 6. Equal rights of public to transportation.**—All individuals, associations and corporations shall have equal rights to have persons and property transported over any railroad in this state, and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within the state, and no railroad company, nor any lessee, manager or employe thereof, shall give any preference to individuals, associations or corporations in furnishing cars or motive power.

Discrimination in charges prohibited, §4, c. 29, Vol. 2, 1935 C. S. A.

**Sec. 7. Existing railroads file acceptance of constitution.**—No railroad or other transportation company in existence at the time of the adoption of this constitution shall have the benefit of any future legislation, without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

**Sec. 8. Eminent domain—Police power—Not to be abridged.**—The right of eminent domain shall never be abridged nor so construed as to prevent the general assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and 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. 9. Fictitious stock, bonds—Increase of stock.**—No corporation shall issue stocks or bonds, except for labor done, service performed, or money or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock, first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

**Sec. 10. Foreign corporations—Place—Agent.**—No foreign corporation shall do any business in this state without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served.

**Sec. 11. Street railroads—Consent of municipality.**—No street railroad shall be constructed within any city, town or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

See §9, c. 139, Vol. 4, 1935 C. S. A.

**Sec. 12. Retrospective laws not to be passed.**—The general assembly shall pass no law for the benefit of a railroad or other corporation, 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. 13. Telegraph lines—Consolidation.**—Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this state, and to connect the same with other lines, and the general assembly shall, by general law, of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph company owning or having the control of a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

For provisions as to telegraph companies, see §§57-137 et seq., c. 41, Vol. 2, 1935 C. S. A.

**Sec. 14. Railroad or telegraph companies—Consolidating with foreign companies.**—If any railroad, telegraph, express or other corporation organized under any of the laws of this state, shall consolidate, by sale or otherwise, with any railroad, telegraph, express or other corporation organized under any laws of any other state or territory or of the United States, the same shall not thereby become a foreign corporation, but the courts of the state shall retain jurisdiction over that part of the corporate property within the limits of the state in all matters which may arise, as if said consolidation had not taken place.

See §18, c. 139, Vol. 4, 1935 C. S. A.



Sec. 15. **Contracts with employes releasing from liability—Void.**—It shall be unlawful for any person, company or corporation, to require of its servants or employes, as a condition of their employment or otherwise, any contract or agreement, whereby such persons, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employes while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof, and such contracts shall be absolutely null and void.

## ARTICLE XVI.

### MINING AND IRRIGATION.

#### Mining.

Section 1. **Commissioner of mines.**—There shall be established and maintained the office of commissioner of mines, the duties and salaries of which shall be prescribed by law. When said office shall be established, the governor shall, with the advice and consent of the senate, appoint thereto a person known to be competent, whose term of office shall be four years.

See §277, c. 110, Vol. 4, 1935 C. S. A.

Sec. 2. **Ventilation—Employment of children.**—The general assembly shall provide by law for the proper ventilation of mines, the construction of escapement shafts, and such other appliances as may be necessary to protect the health and secure the safety of the workmen therein; and shall prohibit the employment in the mines of children under twelve years of age.

For mine regulations, see Article 13, p. 171, Vol. 4, 1935 C. S. A.

For child labor law, see Article 5, p. 1281, Vol. 3, 1935 C. S. A.

Sec. 3. **Drainage.**—The general assembly may make such regulations from time to time, as may be necessary for the proper and equitable drainage of mines.

Sec. 4. **Mining, metallurgy, in public institutions.**—The general assembly may provide that the science of mining and metallurgy be taught in one or more of the institutions of learning under the patronage of the state.

#### Irrigation.

Sec. 5. **Water, public property.**—The water of every natural stream, not heretofore appropriated, within the state of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.

Sec. 6. **Diverting unappropriated water—Priority.**—The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better

right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes.

The provision of the above section with respect to preference of domestic use does not entitle one desiring to use water for domestic purposes to take it without compensation from another who has previously appropriated it for some other purpose. *Town of Sterling v. Pawnee Ditch Extension Co.*, 42 C. 421, 94 P. 339.

**Sec. 7. Right of way for ditches, flumes.**—All persons and corporations shall have the right of way across public, private and corporate lands for the construction of ditches, canals and flumes for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

For eminent domain act, see c. 61, p. 174, Vol. 3, 1935 C. S. A.

**Sec. 8. County commissioners fix rates for water.**—The general assembly shall provide by law that the board of county commissioners in their respective counties, shall have power, when application is made to them by either party interested, to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations.

For statutes on above subject, see §140 et seq., c. 90, Vol. 3, 1935 C. S. A.  
See also, §47, c. 41, Vol. 2, 1935 C. S. A.

## ARTICLE XVII.

### MILITIA.

**Section 1. Persons subject to service.**—The militia of the state shall consist of all able-bodied male residents of the state between the ages of eighteen and forty-five years; except, such persons as may be exempted by the laws of the United States, or of the state.

For exemptions, see §§1-6, c. 111, Vol. 4, 1935 C. S. A.

**Sec. 2. Organization — Equipment — Discipline.**—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.

For organization of militia, see §10 et seq., c. 111, Vol. 4, 1935 C. S. A.

**Sec. 3. Officers—How chosen.**—The governor shall appoint all general, field and staff officers and commission them. Each company shall elect its own officers, who shall be commissioned by the governor; but if any company shall fail to elect such officers within the time prescribed by law, they may be appointed by the governor.

As to election of officers, see §14.

**Sec. 4. Armories.**—The general assembly shall provide for the safe-keeping of the public arms, military records, relics and banners of the state.

**Sec. 5. Exemption in time of peace.**—No person having conscientious scruples against bearing arms, shall be compelled to do militia duty in time of peace; Provided, Such person shall pay an equivalent for such exemption.

## ARTICLE XVIII.

### MISCELLANEOUS.

**Section 1. Homestead law.**—The general assembly shall pass liberal homestead and exemption laws.

See §23 et seq., c. 93, Vol. 3, 1935 C. S. A.

**Sec. 2. Lotteries prohibited.**—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 in this state.

For lotteries and gift enterprises, see §1 et seq., c. 104, Vol. 4, 1935 C. S. A.

**Sec. 3. Arbitration laws.**—It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by mutual agreement of the parties to any controversy who may choose that mode of adjustment. The powers and duties of such arbitrators shall be as prescribed by law.

For arbitration, see code, §314 et seq.

**Sec. 4. Felony defined.**—The term felony, wherever it may occur in this constitution or the laws of the state, shall be construed to mean any criminal offense punishable by death or imprisonment in the penitentiary, and none other.

**Sec. 5. Spurious and drugged liquors—Laws concerning.**—The general assembly shall prohibit by law the importation into this state, for the purpose of sale, of any spurious, poisonous or drugged spirituous liquors, or spirituous liquors adulterated with any poisonous or deleterious substance, mixture, or compound; and shall prohibit the compounding or manufacture within this state, except for chemical or mechanical purposes, of any of said liquors, whether they be denominated spirituous, vinous, malt or otherwise; and shall also prohibit the sale of any such liquors to be used as a beverage, and any violation of either of said prohibitions shall be punished by fine and imprisonment. The general assembly shall provide by law for the condemnation and destruction of all spurious, poisonous or drugged liquors herein prohibited.

**Sec. 6. Preservation of forests.**—The general assembly shall enact laws in order to prevent the destruction of, and to keep in good preservation, the forests upon the lands of the state, or upon lands of the public domain, the control of which shall be conferred by congress upon the state.

For forestry, see §115 et seq., c. 134, Vol. 4, 1935 C. S. A.

**Sec. 7. Land exempt from increase tax.**—The general assembly may provide that the increase in the value of private lands caused by the planting of hedges, orchards and forests thereon, shall not, for a limited

time to be fixed by law, be taken into account in assessing such lands for taxation.

For timber planting exemption, see §25, c. 142, Vol. 4, 1935 C. S. A.

**Sec. 8. Publication of session laws.**—The general assembly shall provide for the publication of the laws passed at each session thereof. And until the year 1900 they shall cause to be published in Spanish and German a sufficient number of copies of said laws, to supply that portion of the inhabitants of the state who speak those languages, and who may be unable to read and understand the English language.

## ARTICLE XIX.

### AMENDMENTS.

**Section 1. Constitutional convention—How called.**—The general assembly may at any time by a vote of two-thirds of the members elected to each house, recommend to the electors of the state, to vote at the next general election for or against a convention to revise, alter and amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the general assembly shall, at its next session, provide for the calling thereof. The number of members of the convention shall be twice that of the senate and they shall be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting; fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States, and of the state of Colorado, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate; and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary; which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

**Sec. 2. Amendments to constitution—How adopted.**—Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals; the proposed amendment or amendments shall be published with the laws of that session of the general assembly, and the secretary of state shall also cause the said amendment or amendments to be published in full in not more than one news-

paper of general circulation in each county, for four successive weeks previous to the next general election for members of the general assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this constitution.

Provided, That if more than one amendment be submitted at any general election, each of said amendments shall be voted upon separately and votes thereon cast shall be separately counted the same as though but one amendment was submitted. But the general assembly shall have no power to propose amendments to more than six articles of this constitution at the same session.

[Amended section as provided by L. '99, p. 155. Adopted November 6, 1900. The original section read: "Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendments, together with the ayes and noes of each house thereon, shall be entered in full in their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the general assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon, shall become part of this constitution; but the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session."]

Restriction of proposed amendments to six does not apply to merely constructive amendments or amendments by implication. *People ex rel. v. Sours*, 31 C. 369, 74 P. 167.

The publication for four successive weeks previous to the general election applies only to the publication in newspapers. *Pearce v. People*, 53 C. 399, 127 P. 224.

Under Art. XIX, Sec. 2, the number of amendments that may be proposed by initiative to be voted on at a single election is not limited. *People ex rel. v. Prevost*, 55 C. 199, 134 P. 129.

## ARTICLE XX.

### CITY AND COUNTY OF DENVER.

Section 1. **Incorporated.**—The municipal corporation known as the city of Denver, and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the "City and County of Denver." By that name said corporation shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed or held by the said city of Denver and by such included municipal corporations, and also all property, real and personal, theretofore owned, possessed or held by the said county of Arapahoe, and shall assume, manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said city of Denver and of said included municipal corporations and of the county of Arapahoe; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive,

hold and enjoy, or sell and dispose of, real and personal property; may receive bequests, gifts, and donations of all kinds of property, in fee simple, or in trust for public, charitable or other purposes; and do all things and acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust; shall have the power within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate, water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said city and county and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection with either, that may exist and which said city and county may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city and county, which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided.

The general annexation and consolidation statutes of the state shall apply to the city and county of Denver to the same extent and in the same manner that they would apply to the city of Denver if it were not merged, as in this amendment provided, into the city and county of Denver. Any contiguous town, city or territory hereafter annexed to or consolidated with the city and county of Denver, under any of the laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all property thereunto belonging.

The city and county of Denver shall alone always constitute one judicial district of the state.

Denver has no power to legislate on matters solely affecting county affairs. *Hilts v. Markey*, 52 C. 382, 122 P. 394.

Const., Art. 22, takes away the authority granted the city and county of Denver by Art. 20 to grant licenses for the sale of liquor. *People ex rel. Carlson v. City Council*, 60 C. 370, 153 P. 690.

**Sec. 2. Officers.**—The officers of the city and county of Denver shall be such as by appointment or election may be provided for by the charter; and the jurisdiction, term of office, duties and qualifications of all such officers shall be such as in the charter may be provided; but every charter shall designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the constitution or by the general law, as far as applicable. If any officer of said city and county of Denver shall receive any compensation whatever, he or she shall receive the same as a stated salary, the amount of which shall be

fixed by the charter, and paid out of the treasury of the city and county of Denver in equal monthly payments.

A county judge is a state and not a county officer within the scope of this amendment, and he holds under Art. VI, and not under the charter of Denver. *Dixon v. People*, ex rel. 53 C. 527, 127 P. 930.

A justice of the peace is a county and not a state officer. *Thrush v. People*, 53 C. 544, 127 P. 937.

**Sec. 3. Transfer of government.**—Immediately upon the canvass of the vote showing the adoption of this amendment, it shall be the duty of the governor of the state to issue his proclamation accordingly, and thereupon the city of Denver, and all municipal corporations and that part of the county of Arapahoe within the boundaries of said city, shall merge into the city and county of Denver, and the terms of office of all officers of the city of Denver and of all included municipalities and of the county of Arapahoe shall terminate; except, that the then mayor, auditor, engineer, council (which shall perform the duties of a board of county commissioners), police magistrate, chief of police and boards, of the city of Denver shall become, respectively, said officers of the city and county of Denver, and said engineer shall be ex officio surveyor and said chief of police shall be ex officio sheriff of the city and county of Denver; and the then clerk and ex officio recorder, treasurer, assessor and coroner of the county of Arapahoe, and the justices of the peace and constables holding office within the city of Denver, shall become, respectively, said officers of the city and county of Denver, and the district attorney shall also be ex officio attorney of the city and county of Denver. The foregoing officers shall hold the said offices as above specified only until their successors are duly elected and qualified as herein provided for; except that the then district judges, county judge and district attorney shall serve their full terms, respectively, for which elected. The police and firemen of the city of Denver, except the chief of police as such, shall continue severally as the police and firemen of the city and county of Denver until they are severally discharged under such civil service regulations as shall be provided by the charter; and every charter shall provide that the department of fire and police and the department of public utilities and works shall be under such civil service regulations as in said charter shall be provided.

**Sec. 4. First charter.**—The charter and ordinances of the city of Denver as the same shall exist when this amendment takes effect, shall, for the time being only, and as far as applicable, be the charter and ordinances of the city and county of Denver; but the people of the city and county of Denver are hereby vested with and they shall always have the exclusive power in the making, altering, revising or amending their charter and, within ten days after the proclamation of the governor announcing the adoption of this amendment the council of the city and county of Denver shall, by ordinance, call a special election, to be conducted as provided by law, of the qualified electors in said city and county of Denver, for the election of twenty-one taxpayers who shall have been qualified electors within the limits thereof for at least five years, who shall constitute a charter convention to frame a charter for said city and county in

harmony with this amendment. Immediately upon completion, the charter so framed, with a prefatory synopsis, shall be signed by the officers and members of the convention and delivered to the clerk of said city and county, who shall publish the same in full, with his official certification, in the official newspaper of said city and county, three times, and a week apart, the first publication being with the call for a special election, at which the qualified electors of said city and county shall by vote express their approval or rejection of the said charter. If the said charter shall be approved by a majority of those voting thereon, then two copies thereof (together with the vote for and against) duly certified by the said clerk, shall, within ten days after such vote is taken, be filed with the secretary of state, and shall thereupon become and be the charter of the city and county of Denver. But if the said charter be rejected, then, within thirty days thereafter, twenty-one members of a new charter convention shall be elected at a special election to be called as above in said city and county, and they shall proceed as above to frame a charter, which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated shall be repeated (each special election for members of a new charter convention being within thirty days after each rejection) until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, whereupon it shall become the charter of the said city and county of Denver and shall become the organic law thereof, and supersede any existing charters and amendments thereof. The members of each of said charter conventions shall be elected at large; and they shall complete their labors within sixty days after their respective election.

Every ordinance for a special election of charter convention members shall fix the time and place where the convention shall be held, and shall specify the compensation, if any, to be paid the officers and members thereof, allowing no compensation in case of non-attendance or tardy attendance, and shall fix the time when the vote shall be taken on the proposed charter, to be not less than thirty days nor more than sixty days after its delivery to the clerk. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city and county of Denver.

All expenses of charter conventions shall be paid out of the treasury upon the order of the president and secretary thereof. The expenses of elections for charter conventions and of charter votes shall be paid out of the treasury upon the order of the council.

No franchise relating to any street, alley or public place of the said city and county shall be granted except upon the vote of the qualified taxpaying electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by said treasurer) of such submission by the applicant for



said franchise. The council shall have power to fix the rate of taxation on property each year for city and county purposes.

**Sec. 5. New charters, amendments or measures.**—The citizens of the city and county of Denver shall have the exclusive power to amend their charter or to adopt a new charter, or to adopt any measure as herein provided;

It shall be competent for qualified electors in number not less than five per cent of the next preceding gubernatorial vote in said city and county to petition the council for any measure, or charter amendment, or for a charter convention. The council shall submit the same to a vote of the qualified electors at the next general election not held within thirty days after such petition is filed; whenever such petition is signed by qualified electors in number not less than ten per cent of the next preceding gubernatorial vote in said city and county, with a request for a special election, the council shall submit it at a special election to be held not less than thirty nor more than sixty days from the date of filing the petition; Provided, That any question so submitted at a special election shall not again be submitted at a special election within two years thereafter. In submitting any such charter, charter amendment or measure, any alternative article or proposition may be presented for the choice of voters, and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance as provided in section four (4) hereof, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, and all expenses paid, as in said section provided.

The clerk of the city and county shall publish, with his official certification, for three times, a week apart, in the official newspaper, the first publication to be with his call for the election, general or special, the full text of any charter, charter amendment, measure, or proposal for a charter convention, or alternative article or proposition, which is to be submitted to the voters. Within ten days following the vote the said clerk shall publish once in said newspaper the full text of any charter, charter amendment, measure, or proposal for a charter convention, or alternative article or proposition, which shall have been approved by a majority of those voting thereon, and he shall file with the secretary of state two copies thereof (with the vote for and against) officially certified by him, and the same shall go into effect from the date of such filing. He shall also certify to the secretary of state, with the vote for and against, two copies of every defeated alternative article or proposition, charter, charter amendment, measure or proposal for a charter convention. Each charter shall also provide for a reference upon proper petition therefor, of measures passed by the council to a vote of the qualified electors, and for the initiative by the qualified electors of such ordinances as they may by petition request.

The signatures to petitions in this amendment mentioned need not all be on one paper. Nothing herein or elsewhere shall prevent the council, if it sees fit, from adopting automatic vote registers for use at elections and references.

No charter, charter amendment or measure adopted or defeated under the provisions of this amendment shall be amended, repealed or revived, except by petition and electoral vote. And no such charter, charter amendment or measure shall diminish the tax rate for state purposes fixed by act of the general assembly, or interfere in anywise with the collection of state taxes.

**Sec. 6. Home rule for cities and towns.**—The people of each city or town of this state, having a population of two thousand inhabitants as determined by the last preceding census taken under the authority of the United States, the state of Colorado or said city or town, are hereby vested with, and they shall always, have, power to make, amend, add to or replace the charter of said city or town, which shall be its organic law and extend to all its local and municipal matters.

Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith.

Proposals for charter conventions shall be submitted by the city council or board of trustees, or other body in which the legislative powers of the city or town shall then be vested, at special elections, or at general, state or municipal election, upon petition filed by qualified electors, all in reasonable conformity with section 5 of this article, and all proceedings thereon or thereafter shall be in reasonable conformity with sections 4 and 5 of this article.

From and after the certifying to and filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this article, such city or town, and the citizens thereof, shall have the powers set out in sections 1, 4 and 5 of this article, and all other powers necessary, requisite or proper for the government and administration of its local and municipal matters, including power to legislate upon, provide, regulate, conduct and control:

a. The creation and terms of municipal officers, agencies and employments; the definition, regulation and alteration of the powers, duties, qualifications and terms or tenure of all municipal officers, agents and employes;

b. The creation of police courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of police magistrates therefor;

c. The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof;

d. All matters pertaining to municipal elections in such city or town, and to electoral votes therein on measures submitted under the

charter or ordinances thereof, including the calling or notice and the date of such election or vote, the registration of voters, nominations, nomination and election systems, judges and clerks of election, the form of ballots, balloting, challenging, canvassing, certifying the result, securing the purity of elections, guarding against abuses of the elective franchise, and tending to make such elections or electoral votes non-partisan in character;

e. The issuance, refunding and liquidation of all kinds of municipal obligations, including bonds and other obligations of park, water and local improvement districts;

f. The consolidation and management of park or water districts in such cities or towns or within the jurisdiction thereof; but no such consolidation shall be effective until approved by the vote of a majority, in each district to be consolidated, of the qualified electors voting therein upon the question;

g. The assessment of property in such city or town for municipal taxation and the levy and collection of taxes thereon for municipal purposes and special assessments for local improvements; such assessments, levy and collection of taxes and special assessments to be made by municipal officials or by the county or state officials as may be provided by the charter;

h. The imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of the charter, or of any ordinance adopted in pursuance of the charter.

It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions the full right of self-government in both local and municipal matters and the enumeration herein of certain powers shall not be construed to deny such cities and towns, and to the people thereof, any right or power essential or proper to the full exercise of such right.

The statutes of the state of Colorado, so far as applicable, shall continue to apply to such cities and towns, except in so far as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters.

All provisions of the charters of the city and county of Denver and the cities of Pueblo, Colorado Springs and Grand Junction, as heretofore certified to and filed with the secretary of state, and of the charter of any other city heretofore approved by a majority of those voting thereon and certified to and filed with the secretary of state, which provisions are not in conflict with this article, and all elections and electoral votes heretofore had under and pursuant thereto, are hereby ratified, affirmed and validated as of their date.

Any act in violation of the provisions of such charter or of any ordinance thereunder shall be criminal and punishable as such when so provided by any statute now or hereafter in force.

The provisions of this section 6 shall apply to the city and county of Denver.

This article shall be in all respects self-executing.

[Amended section as proposed by initiative petition and adopted November 5, 1912. The original section read: "Cities of the first and second class in this state are hereby empowered to propose for submission to a vote of the qualified electors, proposals for charter conventions and to hold the same, and to amend any such charter, with the same force and in the same manner and have the same power, as near as may be, as set out in sections four (4) and five (5) hereof, with full power as to real and personal property and public utilities, works or ways, as set out in section one (1) of this amendment."]

**Sec. 7. School districts consolidated.**—The city and county of Denver shall alone always constitute one school district, to be known as District No. 1, but its conduct, affairs and business shall be in the hands of a board of education consisting of such numbers, elected in such manner as the general school laws of the state shall provide, and until the first election under said laws of a full board of education which shall be had at the first election held after the adoption of this amendment, all the directors of school district No. 1, and the respective presidents of the school boards of school districts Nos. 2, 7, 17 and 21, at the time this amendment takes effect, shall act as such board of education, and all districts or special charters now existing are hereby abolished.

The said board of education shall perform all the acts and duties required to be performed for said district by the general laws of the state. Except as inconsistent with this amendment, the general school laws of the state shall, unless the context evinces a contrary intent, be held to extend and apply to the said "District No. 1."

Upon the annexation of any contiguous municipality which shall include a school district or districts or any part of a district, said school district or districts or part shall be merged in said "District No. 1," which shall then own all the property thereof, real and personal, located within the boundaries of such annexed municipality, and shall assume and pay all the bonds, obligations and indebtedness of each of the said included school districts, and a proper proportion of those of partially included districts;

Provided, however, That the indebtedness, both principal and interest, which any school district may be under at the time when it becomes a part, by this amendment or by annexation, of said "District No. 1," shall be paid by said school district so owing the same by a special tax to be fixed and certified by the board of education to the council, which shall levy the same upon the property within the boundaries of such district, respectively, as the same existed at the time such district becomes a part of said "District No. 1," and in case of partially included districts such tax shall be equitably apportioned upon the several parts thereof.

**Sec. 8.** Anything in the constitution of this state in conflict or inconsistent with the provisions of this amendment is hereby declared to be inapplicable to the matters and things by this amendment covered and provided for.

[Additional article as proposed by L. '01, p. 97. Adopted November 4, 1902, and amendment adopted November 5, 1912.]

## ARTICLE XXI.

## RECALL FROM OFFICE.

Section 1. **State officers may be recalled.**—Every elective public officer of the state of Colorado may be recalled from office at any time by the electors entitled to vote for a successor of such incumbent through the procedure and in the manner herein provided for, which procedure shall be known as the recall, and shall be in addition to and without excluding any other method of removal provided by law.

The procedure hereunder to effect the recall of an elective public officer shall be as follows:

A petition signed by electors entitled to vote for a successor of the incumbent sought to be recalled equal in number to twenty-five per centum of the entire vote cast at the last preceding election for all candidates for the position which the incumbent sought to be recalled occupies, demanding an election of the successor to the officer named in said petition, shall be filed in the office in which petitions for nominations to office held by the incumbent sought to be recalled are required to be filed; Provided, if more than one person is required by law to be elected to fill the office of which the person sought to be recalled is an incumbent, then the said petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five per centum of the entire vote cast at the last preceding general election for all candidates for the office, to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office, at the last preceding general election; and such petition shall contain a general statement, in not more than two hundred words, of the ground or grounds on which such recall is sought, which statement is intended for the information of the electors, and the electors shall be the sole and exclusive judges of the legality, reasonableness and sufficiency of such ground or grounds assigned for such recall, and said ground or grounds shall not be open to review.

One seeking the recall of a judge is privileged and is not guilty of contempt in stating the facts on which the recall is sought. *Marians v. People*, 69 C. 87, 169 P. 155.

School directors are not subject to recall. *Guyer v. Stutt*, 68 C. 422, 191 P. 120.

Sec. 2. **Form of recall petition.**—Any recall petition may be circulated and signed in sections, provided each section shall contain a full and accurate copy of the title and text of the petition; and such recall petition shall be filed in the office in which petitions for nominations to office held by the incumbent sought to be recalled are required to be filed.

The signatures to such recall petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition, and his place of residence, giving his street number, if any, should he reside in a town or city. The person circulating such sheet must make and subscribe an oath on said sheet that the signatures thereon are genuine, and a false oath, wilfully so made and subscribed by such person, shall be perjury and be punished as such. All petitions shall be

deemed and held to be sufficient if they appear to be signed by the requisite number of signers, and such signers shall be deemed and held to be qualified electors, unless a protest in writing under oath shall be filed in the office in which such petition has been filed, by some qualified elector, within fifteen days after such petition is filed, setting forth specifically the grounds of such protest, whereupon the officer with whom such petition is filed shall forthwith mail a copy of such protest to the person or persons named in such petition as representing the signers thereof, together with a notice fixing a time for hearing such protest not less than five nor more than ten days after such notice is mailed. All hearings shall be before the officer with whom such protest is filed, and all testimony shall be under oath. Such hearings shall be summary and not subject to delay, and must be concluded within thirty days after such petition is filed, and the result thereof shall be forthwith certified to the person or persons representing the signers of such petition. In case the petition is not sufficient it may be withdrawn by the person or a majority of the persons representing the signers of such petition, and may, within fifteen days thereafter, be amended and refiled as an original petition. The finding as to the sufficiency of any petition may be reviewed by any state court of general jurisdiction in the county in which such petition is filed, upon application of the person or a majority of the persons representing the signers of such petition, but such review shall be had and determined forthwith. The sufficiency, or the determination of the sufficiency, of the petition referred to in this section shall not be held or construed to refer to the ground or grounds assigned in such petition for the recall of the incumbent sought to be recalled from office thereby.

When such petition is sufficient, the officer with whom such recall petition was filed shall forthwith submit said petition, together with a certificate of its sufficiency to the governor, who shall thereupon order and fix the date holding the election not less than thirty days nor more than sixty days from the date of submission of said petition: Provided, If a general election is to be held within ninety days after the date of submission of said petition, the recall election shall be held as part of said general election.

A mere deposit with the secretary of state of a petition to recall an officer is not a filing until the secretary has examined it and determined that it is a petition and has actually filed it. The filing does not date back to the date of deposit, and hence protests can be made at any time within fifteen days of such actual filing. *Landrum v. Ramer*, 64 C. 82, 172 P. 3.

A signature to a recall petition is not complete and the writer of it is not a "signer," unless there be added the date of signing and place of residence. *Landrum v. Ramer*, 64 C. 82, 172 P. 3. See *Ramer v. Wright*, 62 C. 53, 159 P. 1145.

**Sec. 3. Resignation—Filling vacancy.**—If such officer shall offer his resignation, it shall be accepted, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law; but the person appointed to fill such vacancy shall hold his office only until the person elected at the recall election shall qualify. If such officer shall not resign within five days after the sufficiency of the recall petition shall have been sustained, the governor shall make or cause to be made publication of notice for the holding of such election, and officers charged by

law with duties concerning elections shall make all arrangements for such election, and the same shall be conducted, returned and the result thereof declared in all respects as in the case of general elections.

On the official ballot at such elections shall be printed in not more than 200 words, the reasons set forth in the petition for demanding his recall, and in not more than three hundred words there shall also be printed, if desired by him, the officer's justification of his course in office. If such officer shall resign at any time subsequent to the filing thereof, the recall election shall be called notwithstanding such resignation.

There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" Following such question shall be the words "Yes" and "No," on separate lines, with a blank space at the right of each, in which the voter shall indicate, by marking a cross (X), his vote for or against such recall.

On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled; but no vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of such person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

If a majority of those voting on said question of the recall of any incumbent from office shall vote "no," said incumbent shall continue in said office; if a majority shall vote "yes," such incumbent shall thereupon be deemed removed from such office upon the qualification of his successor.

If the vote had in such recall elections shall recall the officer then the candidate who has received the highest number of votes for the office thereby vacated shall be declared elected for the remainder of the term, and a certificate of election shall be forthwith issued to him by the canvassing board. In case the person who received the highest number of votes shall fail to qualify within fifteen days after the issuance of a certificate of election, the office shall be deemed vacant, and shall be filled according to law.

Candidates for the office may be nominated by petition, as now provided by law, which petition shall be filed in the office in which petitions for nomination to office are required by law to be filed not less than fifteen days before such recall election.

**Sec. 4. Recall after six months—Members of legislature.**—No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months, save and except it may be filed against any member of the state legislature at any time after five days from the convening and organizing of the legislature after his election.

After one recall petition and election, no further petition shall be filed against the same officer during the term for which he was elected,

unless the petitioners signing said petition shall equal fifty per centum of the votes cast at the last preceding general election for all of the candidates for the office held by such officer as herein above defined.

If at any recall election the incumbent whose recall is sought is not recalled, he shall be repaid from the state treasury any money authorized by law and actually expended by him as expenses of such election; and the legislature shall provide appropriations for such purpose.

If the governor is sought to be recalled under the provisions of this article, the duties herein imposed upon him shall be performed by the lieutenant governor; and if the secretary of state is sought to be recalled, the duties herein imposed upon him, shall be performed by the state auditor.

The recall may also be exercised by the electors of each county, city and county, city and town of the state, with reference to the elective officers thereof, under such procedure as shall be provided by law.

Until otherwise provided by law, the legislative body of any such county, city and county, city and town may provide for the manner of exercising such recall powers in such counties, cities and counties, cities and towns, but shall not require any such recall to be signed by electors more in number than twenty-five per centum of the entire vote cast at the last preceding election, as in section 1 hereof more particularly set forth, for all the candidates for office which the incumbent sought to be recalled occupies, as herein above defined.

Every person having authority to exercise or exercising any public or governmental duty, power or function, shall be an elective officer, or one appointed, drawn or designated in accordance with law by an elective officer or officers, or by some board, commission, person or persons legally appointed by an elective officer or officers, each of which said elective officers shall be subject to the recall provision of this constitution; Provided, that, subject to regulation by law, any person may, without compensation therefor, file petitions, or complaints in courts concerning crimes, or do police duty only in cases of immediate danger to person or property.

Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities and counties or cities having charters adopted under the authority given by the constitution, except as in the last three preceding paragraphs expressed.

In the submission to the electors of any petition proposed under this article, all officers shall be guided by the general laws of the state, except as otherwise herein provided.

This article is self-executing, but legislation may be enacted to facilitate its operations, but in no way limiting or restricting the provisions of this article, or the powers herein reserved.

[Additional article adopted by initiative petition November 5, 1912.]

This section has not the effect to make all elective public officers exercising public functions subject to recall through the procedure provided in Sec. 1. *Guyer v. Stutt*, 68 C. 422, 191 P. 120.

The seventh paragraph of this section is said to contain "an extraordinary jumble of confused ideas in hopeless conflict." *Guyer v. Stutt*, 68 C. 422, 191 P. 120.



ARTICLE XXII.  
INTOXICATING LIQUORS.

On the thirtieth day of June, 1933, all statutory laws of the State of Colorado heretofore enacted concerning or relating to intoxicating liquors shall become void and of no effect; and from and after July 1st, 1933, the manufacture, sale and distribution of all intoxicating liquors, wholly within the state of Colorado shall, subject to the Constitution and laws of the United States, be performed exclusively by or through such agencies and under such regulations as may hereafter be provided by statutory laws of the State of Colorado; but no such laws shall ever authorize the establishment or maintenance of any saloon.

[Adopted by initiative petition November 8, 1932.]

ARTICLE XXIII.  
PUBLICATION OF LEGAL ADVERTISING.

Section 1. **Publication of proposed constitutional amendments and initiated and referred bills.**—Proposed constitutional amendments and proposed initiated and referred bills shall be published in two issues of two newspapers of opposite political faith in each county in the state. This publication shall be made at least one week apart and not less than three nor more than five weeks before the election at which the said amendments or initiated or referred bills are to be voted upon.

[Additional articles as proposed by L. '17, p. 147. Adopted November 5, 1918.]

ARTICLE XXIV.  
OLD AGE PENSION.

Section 1. A fund to be known as the Old Age Pension Fund is hereby created and established in the Treasury of the State of Colorado.

Section 2. There is hereby set aside, allocated and allotted to the Old Age Pension Fund sums and money as follows:

(a) Beginning January 1, 1937, eighty-five per cent of all net revenue accrued or accruing, received or receivable from any and all excise taxes now or hereafter levied upon sales at retail, or any other purchase transaction; together with eighty-five per cent of the net revenue derived from any excise taxes now or hereafter levied upon the storage, use, or consumption of any commodity or product; together with eighty-five per cent of all license fees imposed by the provisions of Chapter 189, Session Laws of Colorado, 1935, and amendments thereto; Provided, however, That no part of the revenue derived from excise taxes now or hereafter levied, for highway purposes, upon gasoline or other motor fuel, shall be made a part of said Old Age Pension Fund.

(b) Beginning January 1, 1937, eighty-five per cent of all net revenue accrued or accruing, received or receivable from taxes of whatever kind upon all malt, vinous, or spirituous liquor, both intoxicating and non-intoxicating, and license fees connected therewith.

(c) All unexpended money in any fund of the State of Colorado, or political subdivision thereof, as of January 1, 1937, which prior to said date has been allocated to the payment of an old age pension.

(d) All grants in aid from the Federal Government for old age assistance.

(e) All inheritance taxes and incorporation fees appropriated under Chapter 145, Session Laws of Colorado, 1933, for Old Age Pensions.

(f) Such other money as may be allocated to said fund by the General Assembly.

Section 3. From and after January 1, 1937, every citizen of the United States who has been a resident of the State of Colorado for such period as the General Assembly may determine, who has attained the age of sixty years or more, and who qualifies under the laws of Colorado to receive a pension, shall be entitled to receive the same; Provided, however, That no person otherwise qualified shall be denied a pension by reason of the fact that he is the owner of real estate occupied by him as a residence; nor shall any person be denied a pension for the reason that he owns personal property which by law is exempt from execution or attachment; nor shall any person be required, in order to receive a pension, to repay, or promise to repay, the State of Colorado any money paid to him as an old age pension.

Section 4. The State Board of Public Welfare, or such other agency as may be authorized by law to administer old age pensions, shall cause all moneys deposited in the Old Age Pension Fund to be paid out to qualified pensioners, after defraying the expense of administering the said fund, within ten days following the expiration of the calendar year in which deposits are made in said fund.

Section 5. The excise taxes on sales at retail, together with all license fees, levied by the provisions of Chapter 189, Session Laws, 1935, as amended, are hereby continued in full force and effect beyond the date on which said taxes and license fees would otherwise expire, and shall continue until repealed or amended; Provided, however, That no law providing revenue for the Old Age Pension Fund shall be repealed, nor shall any such law be amended so as to reduce the revenue provided for the Old Age Pension Fund, except in the event that at the time of such repeal or amendment, revenue is provided for the Old Age Pension Fund in an amount at least equal to that provided by the measure amended or repealed during the calendar year immediately preceding the proposed amendment or repeal.

Section 6. Beginning January 1, 1937, a minimum pension of forty-five dollars (\$45.00) per month shall be paid to those who qualify to receive a pension; and no variation in the amount paid, or other discrimination between persons eligible, shall be permitted; Provided, however, That the amount of net income, from whatever source, that any person eligible for a pension may have, shall be deducted from the amount of the pension which such person would otherwise receive.

Section 7. All the moneys deposited in the Old Age Pension Fund shall remain inviolate for the purposes for which created, and no part thereof shall be transferred to any other fund, or used or appropriated for any other purpose.

[Initiated by petition. Adopted general election November 3, 1936.]  
For statutes, see c. 201, S. L. 1937.

## SCHEDULE

That no inconvenience may arise by reason of the change in the form of government, it is hereby ordained and declared:

**Section 1. All laws remain till repealed.**—That all laws in force at the adoption of this constitution shall, so far as not inconsistent therewith, remain of the same force as if this constitution had not been adopted, until they expire by their own limitation or are altered or repealed by the general assembly; and all rights, actions, prosecutions, claims and contracts of the territory of Colorado, counties, individuals or bodies corporate (not inconsistent therewith) shall continue as if the form of government had not been changed and this constitution adopted.

**Sec. 2. Contracts—Recognizances—Indictments.**—That all recognizances, obligations and all other instruments entered into or executed before the admission of the state, to the territory of Colorado, or to any county, school district or other municipality therein, or any officer thereof, and all fines, taxes, penalties and forfeitures due or owing to the territory of Colorado, or any such county, school district or municipality, or officer; and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the change of the form of government. All indictments which shall have been found, or may hereafter be found, and all informations which shall have been filed, or may hereafter be filed, for any crime or offense committed before this constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in the constitution.

**Sec. 3. Territorial property vests in state.**—That all property, real and personal, and all moneys, credits, claims and choses in action, belonging to the territory of Colorado at the adoption of this constitution, shall be vested in and become the property of the state of Colorado.

**Sec. 4. Duty of general assembly.**—The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

**Sec. 5. Supreme and district courts—Transition.**—Whenever any two of the judges of the supreme court of the state elected or appointed under the provisions of this constitution shall have qualified in their office, the causes theretofore pending in the supreme court of the territory, and the papers, records and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the state; and until so superseded the supreme court of the territory and the judges thereof shall continue with like powers and jurisdiction as if this constitution had not been adopted. Whenever the judge of the district court of any district elected or appointed under the provisions of this constitution, shall have qualified in his office, the several causes theretofore pending in the district court of

the territory, within any county in such district, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto shall pass into the jurisdiction and possession of the district court of the state, for such county, and until the district courts of the territory shall be superseded in manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and powers to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the territory.

**Sec. 6. Judges—District attorneys—Term commence on filing oath.**—The terms of office of the several judges of the supreme and district courts and the district attorneys of the several judicial districts first elected under this constitution, shall commence from the day of filing their respective oaths of office in the office of the secretary of state.

**Sec. 7. Seals of supreme and district courts.**—Until otherwise provided by law, the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively of the state.

**Sec. 8. Probate court—County court.**—Whenever this constitution shall go into effect, the books, records, papers and proceedings of the probate court in each county, and all causes and matters of administration pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree of judgment, order or other determination, in the said several matters and causes, as the said probate court might have done if this constitution had not been adopted. And until the election of the county judges provided for in this constitution, the probate judges shall act as judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein until the said court shall have procured a proper seal.

**Sec. 9. Terms probate court, probate judge, apply to county court, county judge.**—The terms "Probate Court" or "Probate Judge," whenever occurring in the statutes of Colorado territory, shall, after the adoption of this constitution, be held to apply to the county court or county judge, and all laws specially applicable to the probate court in any county, shall be construed to apply to and be in force as to the county court in the same county, until repealed.

**Sec. 10. County and precinct officers.**—All county and precinct officers, who may be in office at the time of the adoption of this constitution, shall hold their respective offices for the full time for which they may have been elected, and until such time as their successors may be elected and qualified in accordance with the provisions of this constitution, and the official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted.

**Sec. 11. Vacancies in county offices.**—All county offices that may become vacant during the year eighteen hundred and seventy-six by the

expiration of the term of the persons elected to said offices, shall be filled at the general election on the first Tuesday in October in the year eighteen hundred and seventy-six, and, except county commissioners, the persons so elected shall hold their respective offices for the term of one year.

**Sec. 12. Constitution takes effect on president's proclamation.**—The provisions of this constitution shall be in force from the day on which the president of the United States shall issue his proclamation declaring the state of Colorado admitted into the Union; and the governor, secretary, treasurer, auditor and superintendent of public instruction of the territory of Colorado shall continue to discharge the duties of their respective offices after the admission of the state into the Union, until the qualification of the officers elected or appointed under the state government; and said officers, for the time they may serve, shall receive the same compensation as the state officers shall by law be paid for like services.

**Sec. 13. First election, contest.**—In case of a contest of election between candidates, at the first general election under this constitution, for judges of the supreme, district or county courts, or district attorneys, the evidence shall be taken in the manner prescribed by territorial law; and the testimony so taken shall be certified to the secretary of state, and said officer, together with the governor and attorney-general, shall review the testimony and determine who is entitled to the certificate of election.

**Sec. 14. First election—Canvass.**—The votes at the first general election under this constitution for the several officers provided for in this constitution who are to be elected at the first election shall be canvassed in the manner prescribed by the territorial law for canvassing votes for like officers. The votes cast for the judges of the supreme and district courts and district attorneys shall be canvassed by the county canvassing board in the manner prescribed by the territorial law for canvassing the votes for members of the general assembly; and the county clerk shall transmit the abstracts of votes to the secretary of the territory acting as secretary of state, under the same regulations as are prescribed by law for sending the abstracts of votes for territorial officers; and the aforesaid acting secretary of state, auditor, treasurer, or any two of them, in the presence of the governor, shall proceed to canvass the votes, under the regulations of sections thirty-five and thirty-six of chapter twenty-eight of the Revised Statutes of Colorado Territory.

**Sec. 15. Senators—Representatives—Districts.**—Senators and members of the house of representatives shall be chosen by the qualified electors of the several senatorial and representative districts as established in this constitution until such districts shall be changed by law; and thereafter by the qualified electors of the several districts as the same shall be established by law.

**Sec. 16. Congressional election—Canvass.**—The votes cast for representatives in congress at the first election held under this constitution shall be canvassed and the result determined in the manner provided by the laws of the territory for the canvass of votes for delegate in congress.

**Sec. 17. General assembly, first session—Restrictions removed.**—The provision of the constitution that no bill, except the general appropriation bill introduced in either house after the first twenty-five days of the session shall become a law, shall not apply to the first session of the general assembly; but no bill introduced in either house at the first session of the general assembly after the first fifty days thereof shall become a law.

**Sec. 18. First general election—Canvass.**—A copy of the abstracts of the votes cast at the first general election held under this constitution shall by the county clerks of the several counties be returned to the secretary of the territory immediately after the canvass of said votes in their several counties; and the secretary, auditor and treasurer of the territory, or any two of them, shall on the twenty-fifth day after the election, meet at the seat of government and proceed to canvass the votes cast for members of the general assembly and determine the result thereof.

**Sec. 19. Presidential electors, 1876.**—The general assembly shall, at their first session, immediately after the organization of the two houses and after the canvass of the votes for officers of the executive department, and before proceeding to other business, provide by act or joint resolution for the appointment by said general assembly of electors in the electoral college, and such joint resolution or the bill for such enactment may be passed without being printed or referred to any committee, or read on more than one day in either house, and shall take effect immediately after the concurrence of the two houses therein, and the approval of the governor thereto shall not be necessary.

**Sec. 20. Presidential electors after 1876.**—The general assembly shall provide that after the year eighteen hundred and seventy-six the electors of the electoral college shall be chosen by direct vote of the people.

**Sec. 21. Expenses of convention.**—The general assembly shall have power at their first session to provide for the payment of the expenses of this convention if any there be then remaining unpaid.

**Sec. 22. Recognizances, bonds, payable to people continue.** — All recognizances, bail bonds, official bonds and other obligations or undertakings, which have been, or at any time before the admission of the state shall be made or entered into, and expressed to be payable to the people of the territory of Colorado, shall continue in full force notwithstanding the change in the form of government, and any breach thereof, whenever occurring, may after the admission of the state be prosecuted, in the name of the people of the state.

Done in Convention at the City of Denver, Colorado, this fourteenth day of March in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundredth.

In Witness Whereof, We have hereunto subscribed our names.

J. C. WILSON, President.

H. P. H. BROMWELL,  
CASIMIRO BARELA,  
GEORGE BOYLES,  
W. E. BECK,  
BYRON L. CARR,  
WM. H. CUSHMAN,  
WILLIAM M. CLARK,  
A. D. COOPER,  
HENRY R. CROSBY,  
ROBERT DOUGLAS,  
LEWIS C. ELLSWORTH,  
CLARENCE P. ELDER,  
F. J. EBERT,  
WILLARD B. FELTON,  
JESUS MARGARCIA,  
DANIEL HURD,  
JOHN S. HOUGH,  
LAFAYETTE HEAD,  
WM. H. JAMES,

WM. R. KENNEDY,  
WM. LEE,  
ALVIN MARSH,  
WM. H. MEYER,  
S. J. PLUMB,  
GEO. E. PEASE,  
ROBERT A. QUILLIAN,  
LEWIS C. ROCKWELL,  
WILBUR F. STONE,  
WILLIAM C. STOVER,  
HENRY C. THATCHER,  
AGAPITO VIGIL,  
W. W. WEBSTER,  
GEORGE G. WHITE,  
EBENEZER T. WELLS,  
P. P. WILCOX,  
JOHN S. WHEELER,  
J. W. WIDDERFIELD,  
ABRAM KNOX YOUNT.

**Attest:**

W. W. COULSON, Secretary.

HERBERT STANLEY, 1st Assistant Secretary.

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