

# STATUTES OF CALIFORNIA 1938

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CONSTITUTION OF 1879 AS AMENDED  
GENERAL LAWS, AMENDMENTS TO  
CODES, RESOLUTIONS AND  
CONSTITUTIONAL  
AMENDMENTS

PASSED AT THE

EXTRA SESSION OF THE FIFTY-SECOND  
LEGISLATURE, 1938



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# CONSTITUTION OF THE STATE OF CALIFORNIA\*

[As amended and in force January 1, 1938.]

## PREAMBLE

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

## ARTICLE I

### DECLARATION OF RIGHTS

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it. [U. S. Constitution]

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land. [Religious Liberties]

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State. [Habeas Corpus]

SEC 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension. [Bail, etc.]

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned. [Jury Trials]

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, by the consent of both parties, expressed in open court by the defendant and his counsel, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court. [As amended November 6, 1928.]

\* Adopted by the people on May 7, 1879. See Art XXII, sec. 12, for effective date. The text as here printed has been compared by the Office of the Legislative Counsel with the original documents in the Office of the Secretary of State. Certain designations (such as "State," "Governor," and names of acts) have sometimes been capitalized in accordance with the State Printer's present style, in amendatory sections where they do not so appear in the original. Also words introducing "provisos" have been italicized, and modern practice has been followed in hyphenization and in the spelling of such words as "employee" and "cooperative."



## Art. 1, § 8

[Prosecutions]

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. When a defendant is charged with the commission of a felony, by a written complaint subscribed under oath and on file in a court within the county in which the felony is triable, he shall, without unnecessary delay, be taken before a magistrate of such court. The magistrate shall immediately deliver to him a copy of the complaint, inform him of his right to the aid of counsel, ask him if he desires the aid of counsel, and allow him a reasonable time to send for counsel; and the magistrate must, upon the request of the defendant, require a peace-officer to take a message to any counsel whom the defendant may name, in the city or township in which the court is situated. If the felony charged is not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein; thereupon, or at any time thereafter while the charge remains pending before the magistrate and when his counsel is present, the defendant may, with the consent of the magistrate and the district attorney or other counsel for the people, plead guilty to the offense charged or to any other offense the commission of which is necessarily included in that with which he is charged, or to an attempt to commit the offense charged; and upon such plea of guilty, the magistrate shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and such testimony as in his discretion he may require to be taken, to the superior court, and thereupon such proceedings shall be had as if such defendant had pleaded guilty in such court.

The foregoing provisions of this section shall be self-executing. The Legislature may prescribe such procedure in cases herein provided for as is not inconsistent herewith. In cases not hereinabove provided for, such proceedings shall be had as are now or may be hereafter prescribed by law, not inconsistent herewith.

[Grand Juries]

A grand jury shall be drawn and summoned at least once a year in each county. [*As amended November 6, 1934. Initiative measure.*]

[Speech, Press]

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

[Assembly, Petition]

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

## Art. I, § 11

SEC. 11. All laws of a general nature shall have a uniform operation. [The Military]

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and 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. [Due Process]

SEC. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; but in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court and by counsel, and may be considered by the court or the jury. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide when there is reason to believe that the witness, from inability or other cause, will not attend at the trial. [As amended November 6, 1934. Initiative measure.] [Eminent Domain]

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; *provided*, that in any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation, the aforesaid State or municipality or county or public corporation or district aforesaid may take immediate possession and use of any right of way or lands to be used for reservoir purposes, required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property,

Art. I, § 14 $\frac{1}{2}$

[Eminent Domain]

as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier. [*As amended November 6, 1934.*]

[Excess Condemnation]

[sic] SEC. 14 $\frac{1}{2}$ . The State, or any of its cities or counties, may acquire by gift, purchase or condemnation, lands for establishing, laying out, widening, enlarging, extending, and maintaining memorial grounds, streets, squares, parkways and reservations in and about and along and leading to any or all of the same, providing land so acquired shall be limited to parcels lying wholly or in part within a distance not to exceed one hundred fifty feet from the closest boundary of such public works or improvements; *provided*, that when parcels which lie only partially within said limit of one hundred fifty feet only such portions may be acquired which do not exceed two hundred feet from said closest boundary, and after the establishment, laying out, and completion of such improvements, may convey any such real estate thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such real estate so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works.

The Legislature may, by statute, prescribe procedure. [*New section adopted November 6, 1928.*]

[Imprisonment]

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of wilful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

[Contracts]

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.

[Aliens]

SEC. 17. Foreigners of the white race, or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of all property, other than real estate, as native born citizens; *provided*, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; *and provided further*, that the Legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise. [*As amended November 6, 1894.*]

[Slavery]

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

[Searches, Seizures]

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches,

## Art. I, § 20

shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. [Treason]

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court. [Privileges]

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.† [Interpretation]

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people. [Property Requirements]

SEC. 24. No property qualification shall ever be required for any person to vote or hold office. [Fishing Rights]

SEC. 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; *provided*, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken. [New section adopted November 8, 1910 ]

[SEC. 26. *No section 26 has been adopted.*]

SEC. 26a. Should an amendment to the Constitution of the State of California by adding to Article I two new sections to be numbered respectively section 26 and section 27, as proposed by initiative petition filed with and certified to the Secretary of State, and relating to intoxicating liquors, be enacted at the general election held on Nov. 3, 1914, then the force and effect of said section 26 shall be suspended until Feb. 15, 1915, at which time it shall have full force and effect except that, as to the manufacture and transportation of intoxicating liquors for delivery at points outside of the State of California only, the force and effect thereof shall be suspended until Jan. 1, 1916, at which time such manufacture and transportation also shall wholly cease and on and after said date said section 26 shall in all respects have full force and effect. [New section adopted November 3, 1914. Initiative measure. The amendment to which this section refers was refused adoption.]

## ARTICLE II

## RIGHT OF SUFFRAGE

SECTION 1. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under and by virtue of the treaty of Queretaro,\* and every naturalized citizen thereof,

† See also Art. IV, section 25. \* See 1 Malloy, Treaties 1107.



Art. II, § 2

[Voters]

who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct forty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within forty days prior to an election, shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct from which he so removed until after such election; *provided, further*, no alien ineligible to citizenship, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; *provided*, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who had the right to vote on October 10, 1911, nor to any person who was sixty years of age and upwards on October 10, 1911; *provided, further*, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein, by reason of physical disability, on the day on which any election is held. [As amended November 4, 1930] [Arrest]

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

[Conventions, Primaries]

SEC. 2½. The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates for public office, by electors, political parties, or organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory. The Legislature shall also have the power to establish the rates of compensation for primary election officers serving at such primary elections in any city, or city and county, or county, or other subdivision of a designated population, without making such compensation uniform, and for such purpose such law may declare the population of any city, city and county, county or political subdivision. *Provided, however*, that until the Legislature shall enact a direct primary election law under the provisions of this section, the present primary election law shall remain in force and effect. [As amended November 3, 1908.] [Nonpartisan Candidates]

SEC. 2¾. Any candidate for a judicial, school, county, township, or other nonpartisan office who at a primary election shall receive votes on a majority of all the ballots cast for candidates for the office for which such candidate seeks nomination, shall be elected to such office. Where two or more candidates are to be elected to a given office and a

## Art. II, § 3

greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest votes of those receiving such majority, and equal in number to the number to be elected. Where a different method of election is provided by a freeholders' charter, the charter provision shall govern. [*New section adopted November 2, 1926.*] [Militia Duty]

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger. [Residence]

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept at any alms-house or other asylum, at public expense; nor while confined in any public prison.\* [Secret Ballot]

SEC. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; *provided*, that secrecy in voting be preserved. [*As amended November 3, 1896.*] [Methods]

SEC. 6. The inhibitions of this Constitution to the contrary notwithstanding, the Legislature shall have power to provide that in different parts of the State different methods may be employed for receiving and registering the will of the people as expressed at elections, and may provide that mechanical devices may be used within designated subdivisions of the State at the option of the local authority indicated by the Legislature for that purpose. [*New section adopted November 4, 1902.*]

## ARTICLE III

## DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of the State of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.

## ARTICLE IV

## LEGISLATIVE DEPARTMENT

SECTION 1. <sup>\*\*1</sup> The legislative power of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the Constitution, and to adopt or reject the same, at the polls independent of the Legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the Legislature. The enacting clause of every law shall be "The people of the State of California do enact as follows:" [The Initiative]

<sup>2</sup> The first power reserved to the people shall be known as the initiative. Upon the presentation to the Secretary of State of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent of all the votes cast for all candidates

\* See Article XX, section 12.

\*\* The paragraph numbers (superior figures) are added.

## Art. IV, § 1

[Initiative to Electors]

for Governor at the last preceding general election, at which a Governor was elected, proposing a law or amendment to the Constitution, set forth in full in said petition, the Secretary of State shall submit the said proposed law or amendment to the Constitution to the electors at the next succeeding general election occurring subsequent to ninety days after the presentation aforesaid of said petition, or at any special election called by the Governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in twelve-point black-face type the following: "Initiative measure to be submitted directly to the electors." [To Legislature]

<sup>3</sup> Upon the presentation to the Secretary of State, at any time not less than ten days before the commencement of any regular session of the Legislature, of a petition certified as herein provided to have been signed by qualified electors of the State equal in number to five per cent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law set forth in full in said petition, the Secretary of State shall transmit the same to the Legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the Legislature, within forty days from the time it is received by the Legislature. If any law proposed by such petition shall be enacted by the Legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the Legislature, within said forty days, the Secretary of State shall submit it to the people for approval or rejection at the next ensuing general election. The Legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the Secretary of State to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the Governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in twelve-point black-face type the following: "Initiative measure to be presented to the Legislature." [Effective Date of Acts]

<sup>4</sup> The second power reserved to the people shall be known as the referendum. No act passed by the Legislature shall go into effect until ninety days after the final adjournment of the session of the Legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the State, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each House. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon; *provided, however*, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed

## Art. IV, § 1

by the Legislature and declared to be an urgency measure shall go into immediate effect.

[Referendum Procedure]

<sup>5</sup> Upon the presentation to the Secretary of State within ninety days after the final adjournment of the Legislature of a petition certified as herein provided, to have been signed by qualified electors equal in number to five per cent of all the votes cast for all candidates for Governor at the last preceding general election at which a Governor was elected, asking that any act or section or part of any act of the Legislature be submitted to the electors for their approval or rejection, the Secretary of State shall submit to the electors for their approval or rejection, such act, or section or part of such act, at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the Governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

[Effects, Ballot Pamphlets]

<sup>6</sup> Any act, law or amendment to the Constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declaration of the vote by the Secretary of State. No act, law or amendment to the Constitution, initiated or adopted by the people, shall be subject to the veto power of the Governor, and no act, law or amendment to the Constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the Legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by those in favor of, and those opposed to, it shall be mailed to each elector in the same manner as now provided by law as to amendments to the Constitution, proposed by the Legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the Senate.

[Submission]

<sup>7</sup> If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the Constitution, proposed by the Legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided. [Title]

<sup>8</sup> Prior to circulation of any initiative or referendum petition for signatures thereof, a draft of the said petition shall be submitted to the Attorney General with a written request that he prepare a title, and summary of the chief purpose and points of said proposed measure,

[sic]

## Art. IV, § 1

[Initiative, Referendum: Proponents]

said title and summary not to exceed one hundred words in all. The persons presenting such request to the Attorney General shall be known as "proponents" of said proposed measure. The Attorney General shall preserve said written request until after the next general election.

[Petition Form]

<sup>9</sup> Any initiative or referendum petition may be presented in sections; but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures on the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

[Filing]

<sup>10</sup> Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the filing of such petition in his office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same, and if necessary the board of supervisors shall allow said clerk or registrar additional assistance for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the Secretary of State and also file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar to the Secretary of State, a supplemental petition identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid.

[Right to File]

<sup>11</sup> The right to file the original petition shall be reserved to its proponents, as defined herein and any section thereof or supplement thereto

## Art. IV, § 1a

presented for filing by any person or persons other than the proponents of a measure or by persons duly authorized in writing by such proponents shall be disregarded by the county clerk or registrar of voters.

<sup>12</sup> The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof, as of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the Secretary of State.

[Qualification of Initiative or Referendum]

<sup>13</sup> When the Secretary of State shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State his certificate showing such fact. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the State. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

[Local Exercise]

<sup>14</sup> The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town of the state to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the initiative and referendum powers herein reserved to such counties, cities and counties, cities and towns, but shall not require more than fifteen per cent of the electors thereof to propose any initiative measure nor more than ten per cent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or cities and counties having charters adopted under the provisions of section 8 of article eleven of this Constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this State, except as is herein otherwise provided. This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved. [*As amended November 8, 1932.*]

[Acts of 50th Session]

SEC. 1a. [*See following section bearing same number.*] All acts passed by the Legislature at its fiftieth regular session on or before July 16, 1933, shall go into effect ninety days after May 22, 1933, except acts which under the provisions of section 1 of Article IV of this Constitution go into effect immediately. All such acts which do not go into effect immediately shall be subject to all the referendum provisions of section 1 of Article IV of this Constitution, except that the petition therein required to be presented to the Secretary of State must be so presented within ninety days after May 22, 1933. The

## Art. IV, § 1a

provisions of this Constitution not in conflict herewith shall otherwise apply to all bills and acts of the fiftieth regular session of the Legislature. [*New section adopted June 27, 1933.*] [Claims, Budgets]

SEC. 1a. [*See preceding section bearing same number.*] Notwithstanding any limitations or restrictions in this Constitution contained, every State office, department, institution, board, commission, bureau, or other agency of the State, whether created by initiative law or otherwise, shall be subject to the regulations and requirements with respect to the filing of claims with the State Controller and the submission, approval and enforcement of budgets prescribed by law. [*New section adopted November 6, 1934.*] [Biennial Sessions]

SEC. 2. The sessions of the Legislature shall be biennial, unless the Governor shall, in the interim, convene the Legislature, by proclamation, in extraordinary session. All sessions, other than extraordinary, shall commence at twelve o'clock m., on the first Monday after the first day of January next succeeding the election of its members, and shall continue in session for a period not exceeding thirty days thereafter; whereupon a recess of both houses must be taken for not less than thirty days. On the reassembling of the Legislature, no bill shall be introduced in either House without the consent of three-fourths of the members thereof, nor shall more than two bills be introduced by any one member after such reassembling. [*As amended October 10, 1911.*] [Assemblymen]

SEC. 3. Members of the Assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the Assembly after the adoption of this Constitution shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter, members of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature. [Senators. Qualifications of Legislators]

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election. [Number]

SEC. 5. The Senate shall consist of forty members, and the Assembly of eighty members, to be elected by districts, numbered as herein-after provided. The seats of the twenty Senators elected in the year eighteen hundred and eighty-two from the odd numbered districts shall be vacated at the expiration of the second year, so that one-half of the Senators shall be elected every two years; *provided*, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years. [Districts]

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts to be called senatorial and assembly districts. Such districts shall be composed of contiguous territory, and assembly districts shall be as nearly equal in population as may be. Each senatorial district shall choose one Senator and each assembly district shall choose one member of Assembly. The senatorial districts shall be numbered

## Art. IV, § 7

from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty in the same order, commencing at the northern boundary of the State and ending at the southern boundary thereof. In the formation of assembly districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, and in the formation of senatorial districts no county, or city and county, shall be divided, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any assembly or senatorial district. The census taken under the direction of the Congress of the United States in the year one thousand nine hundred and twenty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first regular session following the adoption of this section and thereafter at the first regular session following each decennial Federal census, adjust such districts, and reapportion the representation so as to preserve the assembly districts as nearly equal in population as may be; but in the formation of senatorial districts no county or city and county shall contain more than one senatorial district, and the counties of small population shall be grouped in districts of not to exceed three counties in any one senatorial district; *provided, however,* that should the Legislature at the first regular session following the adoption of this section or at the first regular session following any decennial Federal census fail to reapportion the assembly and senatorial districts, a Reapportionment Commission, which is hereby created, consisting of the Lieutenant Governor, who shall be chairman, and the Attorney General, Surveyor General, Secretary of State and State Superintendent of Public Instruction, shall forthwith apportion such districts in accordance with the provisions of this section and such apportionment of said districts shall be immediately effective the same as if the act of said Reapportionment Commission were an act of the Legislature, subject, however, to the same provisions of referendum as apply to the acts of the Legislature. [Population]

Each subsequent reapportionment shall carry out these provisions and shall be based upon the last preceding Federal census. But in making such adjustments no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law. [*As amended November 2, 1926.* Initiative measure.] [Officers, Members]

SEC. 7. Each House shall choose its officers, and judge of the qualifications, elections, and returns of its members. [Quorums]

SEC. 8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each House may provide. [Rules]

SEC. 9. Each House shall determine the rule of its proceeding, and may, with the concurrence of two-thirds of all the members elected, expel a member.



## Art. IV, § 10

[Journals]

SEC. 10. Each House shall keep a Journal of its proceedings, and publish the same, and the yeas and nays of the members of either House, on any question, shall, at the desire of any three members present, be entered on the Journal.

[Arrest, Process]

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

[Vacancies]

SEC. 12. When vacancies occur in either House, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

[Sessions]

SEC. 13. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

SEC. 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either House draw pay for any recess or adjournment for a longer time than three days.

[Bills]

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each House, unless, in case of urgency, two-thirds of the House where such bill may be pending, shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either House, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the Journal; and no bill shall become a law without the concurrence of a majority of the members elected to each House.

[Vetoes]

SEC. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter such objections upon the journal and proceed to reconsider it. If after such reconsideration, it again pass both houses, by yeas and nays, two-thirds of the members elected to each House voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within thirty days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill.\* In such case he shall append to the bill at the time of signing it, a state-

\* See section 34 of this Article.

Art. IV, § 17

ment of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the House in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor. [*As amended November 3, 1908.*]

[Impeachments]

SEC. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members elected.

SEC. 18. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Surveyor General, Chief Justice and associate justices of the Supreme Court, judges of the District Court of Appeal, and judges of the superior courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide. [*As amended October 10, 1911.*]

[Dual Office Holding]

SEC. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, hold or accept any office, trust, or employment under this State; *provided*, that this provision shall not apply to any office filled by election by the people. [*As amended November 7, 1916. Initiative measure.*]

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers in the militia, who receive no annual salary, local officers, or Postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

[Embezzlers]

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

[Appropriations]

SEC. 22.\* No money shall be drawn from the treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that notwithstanding anything contained in this or any other section of the Constitution, the Legislature shall

\* See note at end of section, on page **xxi**.

Art. IV, § 22

[Aid to Institutions, etc.]

have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided, further*, that the Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions; *provided, further*, that the State shall have at any time the right to inquire into the management of such institutions; *provided, further*, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State [etc] or by any of its political subdivisions; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature; *provided, however*, that for the purpose of raising five million dollars, to be used in establishing, maintaining, and supporting in the city and county of San Francisco, State of California, an exposition in commemoration of the completion of the Panama Canal, to be known as the Panama-Pacific International Exposition, the State Board of Equalization shall, for the fiscal year beginning July 1, 1911, and for each fiscal year thereafter, to and including the fiscal year beginning July 1, 1914, fix, establish, and levy such an ad valorem rate of taxation, as when levied upon all the taxable property in the State, after making due allowance for delinquency, shall produce for each of such fiscal years a sum of one million two hundred fifty thousand dollars. The said taxes shall be levied, assessed, and collected upon every kind and character of property in the State of California not exempt from taxation under the law, and subject to taxation on the first day of July, 1910, and in the same manner, and by the same method, as other State taxes were levied, assessed, and collected under the law, as the same existed on the first day of July, 1910. The State Board of Equalization shall each year, at the time it determines the amount of revenue required for other State purposes, determine, fix, and include the rate of tax necessary to raise the revenue herein provided for.

[P. P. I. E. Fund]

There is hereby created in the State treasury a fund to be known as the Panama-Pacific International Exposition fund, and all moneys collected pursuant to this provision, after deducting the proportionate share of the expense for the collection of the same, shall be paid into the State treasury, and credited to such fund. All moneys so paid into such fund are hereby appropriated, without reference to fiscal years, for the use, establishment, maintenance and support of said Panama-

## Art. IV, § 22

Pacific International Exposition. No tax, license fee, or charge of any kind or character shall ever be levied or assessed or charged against any property of said Panama-Pacific International Exposition, or against any property used as exhibit therein, while being used or exhibited in connection therewith.

[P. P. I. E. Commission]

There is hereby created a commission to be known as the Panama-Pacific International Exposition commission of the State of California, which shall consist of the Governor of said State and four other members to be appointed by the Governor, by and with the advice and consent of the Senate of said State. The Governor shall have the power to fill all vacancies occurring at any time in said commission. The members of said commission shall receive no compensation and shall hold office until such exposition shall have been closed and its affairs settled. Said four members of said commission shall be selected from different sections of the State, and the appointment thereof shall be made by the Governor of the State during the month of February, 1911. The commission hereby created shall have the exclusive charge and control of all moneys paid into the Panama-Pacific International Exposition fund; *and provided, further*, that the Legislature shall pass all laws necessary to carry out the provisions of this act, including the times and the manner in which and the terms and conditions upon which moneys shall be drawn from the State treasury by said commission; where contracts and vouchers shall be filed; to whom and how often reports shall be made; what disposition shall be made of any sum left unexpended or received from the sale of any property or buildings purchased or constructed by said commission for the use of said exposition, or of any disposition of any building or improvement constructed by said commission out of said fund, and to provide for the transfer to the general fund of the State of California, of any portion of said Panama-Pacific International Exposition fund unused

[sic]

[Contract]

The commission herein created is authorized and directed to make such proper contract with the Panama-Pacific International Exposition Company, a corporation organized under the laws of the State of California on the twenty-second day of March, 1910, as will entitle the State of California to share proportionately with the contributors to the said Panama-Pacific International Exposition in the returns from the holding of said exposition at the city and county of San Francisco. [*As amended November 6, 1928, Ayes—1,072,308, Noes—227,551. Two propositions to amend section 22 were adopted November 6, 1928. See next section.*]

[Appropriations]

SEC. 22.\* No money shall be drawn from the treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that notwithstanding anything contained in this or any other section of the Constitution, the Legislature shall have the power to grant aid to the institutions conducted for the support and

\* See note at end of section.

Art. IV, § 22a

[Aid to Institutions, etc.]

maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided*, that the Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the State department of institutions and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; *provided, further*, that the State shall have at any time the right to inquire into the management of such institutions; *provided, further*, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy physically handicapped persons not inmates of any institution under the supervision of the State department of institutions and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State, such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature. [As amended November 6, 1928, Ayes—991,501. Nocs—307,394. Two propositions to amend section 22 were adopted November 6, 1928. See preceding section.]

[State Retirement System]

SEC. 22a. The Legislature shall have power to provide for the payment of retirement salaries to employees of the State who shall qualify therefor by service in the work of the State as provided by law. The Legislature shall have power to fix and from time to time change the requirements and conditions for retirement which shall include a minimum period of service, a minimum attained age and minimum contribution of funds by such employees and such other conditions as the Legislature may prescribe, subject to the power of the Legislature to prescribe lesser requirements for retirement because of disability.

The rates of contribution and the periods and conditions of service and amount of retirement salaries fixed in pursuance of this section shall not be changed except by the vote of two-thirds of the members elected to each of the two Houses of the Legislature. [New section adopted November 4, 1930.]

[Legislators' Compensation]

[sic] SEC. 23. The members of the Legislature shall receive for their services the sum of one hundred dollars each for each month of the term for which they are elected, to be paid monthly in the even numbered years and to be paid during the regular legislative session in the odd numbered years at such times as may be provided by law and mileage to be fixed by law, all paid out of the State treasury, such mileage not to exceed five cents per mile. [As amended November 4, 1924.]

[Legislative Help] Art. IV, § 23a

**SEC. 23a.** The Legislature may provide for additional help; but in no case shall the total expense for officers, employees and attaches exceed the sum of three hundred dollars per day for either House, at any regular or biennial session, nor the sum of two hundred dollars per day for both Houses at any special or extraordinary session, nor shall the pay of any officer, employee or attache be increased after he is elected or appointed. The Legislature shall provide for the selection of all officers, employees and attaches of both Houses and so far as advisable shall require such selection to be under the provisions of the law governing civil service. [*As amended November 4, 1924.*] [Acts]

**SEC. 24.** Every Act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an Act which shall not be expressed in its title, such Act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the Act revised or section amended shall be reenacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language. [Special Laws]

**SEC. 25.** The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

*First*—Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.

*Second*—For the punishment of crimes and misdemeanors.

*Third*—Regulating the practice of Courts of justice.

*Fourth*—Providing for changing the venue in civil or criminal actions.

*Fifth*—Granting divorces. [Divorces]

*Sixth*—Changing the names of persons or places.

*Seventh*—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the State.

*Eighth*—Summoning and impaneling grand and petit juries, and providing for their compensation.

*Ninth*—Regulating county and township business, or the election of county and township officers.

*Tenth*—For the assessment or collection of taxes. [Taxes]

*Eleventh*—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

*Twelfth*—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

*Thirteenth*—Extending the time for the collection of taxes.

*Fourteenth*—Giving effect to invalid deeds, wills, or other instruments.

*Fifteenth*—Refunding money paid into the State treasury.

*Sixteenth*—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein. [Minors]

*Seventeenth*—Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

## Art. IV, § 25a

*Eighteenth*—Legalizing, except as against the State, the unauthorized or invalid act of any officer. [Special Privileges]

*Nineteenth*—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

*Twentieth*—Exempting property from taxation.

*Twenty-first*—Changing county seats.

*Twenty-second*—Restoring to citizenship persons convicted of infamous crimes.

*Twenty-third*—Regulating the rate of interest on money. [Interest]

*Twenty-fourth*—Authorizing the creation, extension, or impairing of liens.

*Twenty-fifth*—Chartering or licensing ferries, bridges, or roads.

*Twenty-sixth*—Remitting fines, penalties, or forfeitures.

*Twenty-seventh*—Providing for the management of common schools.

*Twenty-eighth*—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

*Twenty-ninth*—Affecting the fees or salary of any officer.

*Thirtieth*—Changing the law of descent or succession.

*Thirty-first*—Authorizing the adoption or legitimation of children.

*Thirty-second*—For limitation of civil or criminal actions.

*Thirty-third*—In all other cases where a general law can be made applicable. [Horse Races]

SEC. 25a. The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results thereof. The provisions of an act entitled "An act to provide for the regulation and licensing of horse racing, horse race meetings, and the wagering on the results thereof; to create the California Horse Racing Board for the regulation, licensing and supervision of said horse racing and wagering thereon; to provide penalties for the violation of the provisions of this act, and to provide that this act shall take effect upon the adoption of a constitutional amendment ratifying its provisions," are hereby confirmed, ratified, and declared to be fully and completely effective; *provided*, that said act may at any time be amended or repealed by the Legislature. [New section adopted June 27, 1933.] [Fish, Game]

SEC. 25½. The Legislature may provide for the division of the State into fish and game districts, and may enact such laws for the protection of fish and game therein as it may deem appropriate to the respective districts. [New section adopted November 4, 1902.] [Boxing, etc.]

SEC. 25¾. The Legislature may provide for the supervision, regulation and conduct, in such manner as it may determine, of wrestling matches or exhibitions and of boxing and sparring matches or exhibitions; *provided*, that no boxing or sparring match or exhibition shall be of more than twelve rounds in length, such rounds to be of not more than three minutes for each round. All moneys, except such sum as the Legislature shall appropriate annually to defray the expenses of the State athletic commission of California and to pay the salaries of officers and employees as provided by law, received by the State from license fees, taxes or other means, on or in relation to boxing, sparring and wrestling matches or exhibitions, shall be and are hereby appropriated for the purpose of maintaining such homes for the care of veterans of any war of the United States as may be existing at the time this

\* See also Art. I, section 21.

## Art. IV, § 26

amendment becomes effective, or that may be established by the laws of this State. Such moneys shall be apportioned as the Legislature of the State of California may direct.

[Proposition 7]

The Legislature in the exercise of the power granted herein may amend, revise, or supplement any part of that certain initiative act approved by the electors November 4, 1924, entitled "An act to authorize boxing and wrestling contests for prizes or purses, or where an admission fee is charged, and limiting such boxing contests to twelve rounds; to create an athletic commission empowered to license such contests and the participants therein; to prescribe conditions under which licenses shall be issued and contests held; to declare that amateur boxing contests conducted under section 412 of the Penal Code shall be subject to the provisions of this measure and under the sole jurisdiction of such commission in all cases wherein an admission fee is charged spectators to witness such amateur boxing contests."

The Legislature shall, however, have no power to take away the effect of the provisions of the initiative act hereinabove cited which allow wrestling and twelve-round boxing contests in the State of California. The repeal either in fact or effect of the sections of the above cited act shall rest entirely in the hands of the people of the State of California as heretofore. [*New section adopted November 8, 1932.*]

[Lotteries, Bucket Shops]

SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to prohibit the fictitious buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange or stock market under the control of any corporation or association. All contracts for the purchase or sale of shares of the capital stock of any corporation or association without any intention on the part of one party to deliver and of the other party to receive the shares, and contemplating merely the payment of differences between the contract and market prices on divers days, shall be void, and neither party to any such contract shall be entitled to recover any damages for failure to perform the same, or any money paid thereon, in any court of this State. [*As amended November 3, 1908.*]

[Congressional Districts]

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more Congressmen; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a



## Art. IV, § 28

congressional district. In dividing a county, or city and county, into congressional districts no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

[Legislative Elections]

Sec. 28. In all elections by the Legislature the members thereof shall vote viva voce, and the votes shall be entered on the Journal.

Sec. 29. [*Repealed November 7, 1922. Initiative measure. See section 34 of this Article.*]

[Sectarian Aid]

Sec. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article.

[Credit, Gifts]

Sec. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section 22 of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; *provided, further*, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; *provided, further*, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

[Veterans]

*Provided further*, that nothing contained in this Constitution shall prohibit the use of State money or credit, in aiding veterans who served in the military or naval service of the United States during time of war.

## Art. IV, § 31a

in the acquisition of, or payments for, farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans.

The California Veterans' Welfare Bond Act of 1921 (Statutes of 1921, Chapter 578), as enacted at the forty-fourth session of the Legislature of the State of California, authorizing the issuance and sale of State bonds in the sum of ten million dollars, for the purpose of creating a fund to carry out the provisions of the California Veterans' Welfare Act, providing land settlement for veterans (Statutes of 1921, Chapter 580), and the provisions of the "Veterans' Farm and Home Purchase Act," providing farm and home aid for veterans (Statutes of 1921, Chapter 519) is hereby approved, adopted, legalized, validated and made fully and completely effective irrespective of the vote that may be cast upon the proposition of approving or disapproving such Veterans' Welfare Bond Act of 1921 at the general election of November 7, 1922. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action.

[Local Transfers]

*And provided, still further,* that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and it shall be his duty to make such temporary transfers from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in his custody and are paid out solely through his office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed eighty-five per cent of the taxes accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes.

[Glendale Assessments]

*And provided, further,* that the city of Glendale, of Los Angeles county, may, when authorized so to do, by a majority of the voters thereof voting at an election held for that purpose, pay from the surplus of the public service department of said city the amount of any assessment or assessments levied by said city between the eleventh day of May, 1921, and the ratification of this amendment, for the replacement of water mains, to the person or persons owning the property so assessed at the time said payment is so authorized; and that no statute of limitations shall apply in any manner. [As amended November 8, 1932.]

[Slaughter of Live Stock]

SEC. 31a. No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law, from public moneys or funds, for the indemnification of the owners of live stock taken, slaughtered or otherwise disposed of pursuant to law to prevent the spread of a contagious or infectious disease; *pro-*

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*vided*, the amount paid in any case for such animal or animals shall not exceed the value of such animal or animals. [*New section, adopted November 4, 1930.*] [Tax Liens]

SEC. 31b. [*See following section bearing same number.*] No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide that the lien of every tax, whether heretofore or hereafter attaching, shall cease to exist for all purposes after thirty years from the time such tax became a lien, or to provide that every tax whether heretofore or hereafter levied shall be conclusively presumed to have been paid after thirty years from the time the same became a lien unless the property subject thereto has been sold in the manner provided by law for the payment of said tax. [*New section adopted November 8, 1932.*] [Escondido Stockholding]

SEC. 31b. [*See preceding section bearing same number.*] Nothing contained in this Constitution shall preclude the city of Escondido, California, from acquiring or holding shares of the capital stock of any mutual water company or corporation, when such stock is so acquired or held for the purpose of furnishing a supply of water for public or municipal purposes or for the use of the inhabitants of the city and the city is hereby authorized to acquire and hold such stock, and said holding of such stock shall entitle such holder thereof to all the rights, powers and privileges, and subject such holder to the obligations and liabilities as are given or are imposed by law to or upon other holders of stock in the mutual water corporation in which such stock is so held. [*New section adopted November 8, 1932.*] [Water Stocks]

SEC. 31c. [*See following section bearing same number.*] Nothing contained in this Constitution shall preclude any city of the fifth or sixth class from acquiring or holding shares of the capital stock of any mutual water company or corporation when said stock is so acquired or held for the purpose of furnishing a supply of water for public or municipal purposes, or for the use of the inhabitants of the city, and the city is hereby authorized to acquire and hold such stock, and said holding of such stock shall entitle such holder thereof to all the rights, [sic] powers and privileges, and subjects such holder to the obligations and liabilities, as are given or are imposed by law to or upon other holders of stock in the mutual water corporation in which such stock is so held [*New section adopted November 6, 1934.*] [Assessment Aid]

SEC. 31c. [*See preceding section bearing same number.*] No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law for the refunding, repayment or adjustment, from public funds raised or appropriated by the United States, the State or any city, city and county, or county for street and highway improvement purposes, of assessments or bonds, or any portion thereof, which have become a lien upon real property, and which were levied or issued to pay the cost of street or highway improvements or of opening and widening proceedings which may be or may have become of more than local benefit. Any such acts of the Legislature heretofore adopted are hereby confirmed and declared valid and shall have the same force and effect as if adopted after the effective date of this amendment. [*New section adopted November 3, 1936.*] [Extra Allowances, etc.]

SEC. 32. The Legislature shall have no power to grant, or author-

## Art. IV, § 33

ize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

[Utility Rates]

SEC. 33 \* The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use, and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

[State Budget]

SEC. 34. The Governor shall, within the first thirty days of each regular session of the Legislature and prior to its recess, submit to the Legislature, with an explanatory message, a budget containing a complete plan and itemized statement of all proposed expenditures of the State provided by existing law or recommended by him, and of all its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for each fiscal year of the ensuing biennial period; together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the first fiscal year of the existing biennial period and the actual and estimated revenues and expenditures for the second fiscal year thereof. If the proposed expenditures for the ensuing biennial period shall exceed the estimated revenues therefor, the Governor shall recommend the sources from which the additional revenue shall be provided. The Governor, and also the Governor-elect, shall have the power to require any institution, department, board, bureau, commission, officer, employee or other agency to furnish him with any information which he may deem necessary in connection with the budget or to assist him in its preparation.† The budget shall be accompanied by an appropriation bill covering the proposed expenditures, to be known as the budget bill. The budget bill shall be introduced immediately into each House of the Legislature by the respective chairmen of the committees having to do with appropriations, and shall be subject to all the provisions of section fifteen of this article. The Governor may at any time amend or supplement the budget and propose amendments to the budget bill before or after its enactment, and each such amendment shall be referred in each House to the committee to which the budget bill was originally referred. Until the budget bill has been finally enacted, neither House shall place upon final passage any other appropriation bill, except emergency bills recommended by the Governor, or appropriations for the salaries, mileage and expenses of the Senate and Assembly. No bill making an appropriation of money, except the

\* See Article XII, section 23.

† See Section 1a of this Article.

## Art. IV, § 34a

[Appropriation Bills]

budget bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed. In any appropriation bill passed by the Legislature, the Governor may reduce or eliminate any one or more items of appropriation of money while approving other portions of the bill, whereupon the effect of such action and the further procedure shall be as provided in section sixteen of this article. Section twenty-nine of this article is hereby repealed. In case of conflict between this section and any other portion of this Constitution, the provisions of this section shall govern, except that any item of appropriation in the budget act, other than for the usual current expenses of the State, shall be subject to the referendum. The Legislature shall enact all laws necessary or desirable to carry out the purposes of this section, and may enact additional provisions not inconsistent herewith. [*As amended November 7, 1922. Initiative measure.*]

[Appropriation Limitations]

SEC. 34a. Appropriations from the general fund of the State for any biennium, exclusive of appropriations for the support of the public school system, shall not exceed by more than five per centum the appropriations from such fund, exclusive of such public school appropriations, for the preceding biennium unless two-thirds of all the members elected to each House of the Legislature vote in favor thereof; *provided*, that no amount appropriated in excess of such five per centum shall become a part of the base for determining the maximum appropriation for a succeeding biennium. Should the appropriations in the budget act for any biennium exceed the limitations herein prescribed, and such budget act be not passed by such two-thirds vote, the several items of appropriation therein shall be deemed reduced by that percentage which the excess amount of appropriation bears to the total appropriation. Should the prescribed limit for any biennium be exceeded by reason of any other appropriation or appropriations from the general fund, then the appropriation first passed by the Legislature without such two-thirds vote, which exceeds such prescribed limitation, shall be deemed reduced by the amount of such excess, and all other subsequent appropriations from the general fund not passed by such two-thirds vote shall be void. Nothing herein contained shall prevent the Governor from vetoing any bills or reducing any appropriation therein or any appropriation reduced as herein provided.

[State Ad Valorem Tax]

Not more than twenty-five per cent of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof. [*New section adopted June 27, 1933.*]

[Lobbying, Bribery]

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office

Art. IV, § 36

or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

[Highways]

SEC. 36. The Legislature shall have power to establish a system of State highways or to declare any road a State highway, and to pass all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance in whole or in part of any county highway. [*New section adopted November 4, 1902.*]

## ARTICLE V

### EXECUTIVE DEPARTMENT

[Governor]

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of California.

SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.

[Eligibility]

SEC. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of twenty-five years at the time of such election.

[Returns]

SEC. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in the presence of both Houses of the Legislature. The person having the highest number of votes shall be Governor; but, in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both Houses, choose one of such persons so having an equal and the highest number of votes for Governor.

[Governor's Authority]

SEC. 5. The Governor shall be Commander-in-Chief of the militia, the army and navy of this State.

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

[Filling Vacancies]

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting

## Art. V, § 9

a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people. [Extra Sessions]

SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto. [Governor's Message]

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient. [Adjournment of Legislature]

SEC. 11. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; *provided*, it be not beyond the time fixed for the meeting of the next Legislature. [Dual Office Holding]

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as hereinafter expressly provided. [Great Seal]

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California." [Grants, Commissions]

SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State. [Lieutenant Governor]

SEC. 15. A Lieutenant Governor shall be elected at the same time and place and in the same manner as the Governor, and his term of office and his qualifications shall be the same. He shall be president of the Senate, but shall only have a casting vote therein. [*As amended November 8, 1898.*] [Succession]

SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of his office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease. And should the Lieutenant Governor be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president pro tempore of the Senate shall act as Governor until the vacancy in the office of Governor shall be filled at the next general election when members of the Legislature shall be chosen, or until such disability of the Lieutenant Governor shall cease. In case of a vacancy in the office of Governor for any of the reasons above named, and neither the Lieutenant Governor nor the president pro tempore of the Senate succeed to the powers and duties of Governor, then the powers and duties of such office shall devolve upon the Speaker of the Assembly, until the office of Governor shall be filled at such general election. [*As amended November 8, 1898.*]

[Other Officers]  
SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney General, and a Surveyor General† shall be elected at the

† See last sentence of section 19 of this Article.

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same time and places, and in the same manner as the Governor and Lieutenant Governor, and their terms of office shall be the same as that of the Governor. [Secretary of State]

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law. [Compensation]

SEC. 19. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, and Surveyor General shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers, as follows: Governor, ten thousand dollars per annum; Lieutenant Governor, four thousand dollars, the Secretary of State, Controller, Treasurer, and Surveyor General, five thousand dollars each per annum, and the Attorney General, six thousand dollars per annum,\* such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during their respective terms of office; *provided, however*, that the Legislature may, by law, diminish the compensation of any or all of such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding eighteen hundred dollars per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor General; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty. [As amended November 3, 1908.] [U. S. Senators]

SEC. 20. United States Senators shall be elected by the people of the State in the manner provided by law. [As amended November 3, 1914.] [Attorney General]

SEC. 21. Subject to the powers and duties of the Governor vested in him by Article V of the Constitution, the Attorney General shall be the chief law officer of the State and it shall be his duty to see that the laws of the State of California are uniformly and adequately enforced in every county of the State. He shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make to him such written reports concerning the investigation, detection, prosecution and punishment of crime in their respective jurisdictions as to him may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases he shall have all the powers of a district attorney. When required by the public interest, or directed by the Governor, he

\* See section 21 of this Article. † Abolished by Political Code § 690.



Art. VI, § 1

[Attorney General]

shall assist any district attorney in the discharge of his duties. In addition to appropriations made by law for the use of the Attorney General, the Governor and the Controller may in writing authorize the setting aside and the payment in accordance with law, from moneys in the State treasury not otherwise appropriated, of such sums as they consider proper for the necessary expenses of the Attorney General in performing the duties imposed by this paragraph.

He shall also have such powers and perform such duties as are or may be prescribed by law and which are not inconsistent herewith.

The Attorney General shall receive the same salary as that now or hereafter prescribed by law for an associate justice of the Supreme Court, and he shall not engage in the private practice of law, nor shall he be associated directly or indirectly with any attorney in private practice; and he shall devote his entire time to the service of the State.

All provisions of this section shall be self-executing, but legislation may be enacted to facilitate their operation. [*New section adopted November 6, 1954. Initiative measure.*]

## ARTICLE VI

## JUDICIAL DEPARTMENT

SECTION 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, in a supreme court, district courts of appeal, superior courts, such municipal courts as may be established in any city or city and county, and such inferior courts as the Legislature may establish in any incorporated city or town, township, county or city and county. [*As amended November 4, 1924.*]

[Judicial Council]

SEC. 1a. There shall be a judicial council. It shall consist of the chief justice or acting chief justice, and of one associate justice of the supreme court, three justices of district courts of appeal, four judges of superior courts, one judge of a police or municipal court, and one judge of an inferior court, assigned by the chief justice to sit thereon for terms of two years; *provided*, that if any judge so assigned shall cease to be a judge of the court from which he is assigned, his term shall forthwith terminate. The chief justice or acting chief justice shall be chairman. No act of the council shall be valid unless concurred in by six members.

The judicial council shall from time to time: [Duties]

- (1) Meet at the call of the chairman or as otherwise provided by it.
- (2) Survey the condition of business in the several courts with a view to simplifying and improving the administration of justice.
- (3) Submit such suggestions to the several courts as may seem in the interest of uniformity and the expedition of business.
- (4) Report to the Governor and Legislature at the commencement of each regular session with such recommendations as it may deem proper. [Rules]

(5) Adopt or amend rules of practice and procedure for the several courts not inconsistent with laws that are now or that may hereafter be in force; and the council shall submit to the Legislature, at each regular session thereof, its recommendations with reference to amendments of, or changes in, existing laws relating to practice and procedure.

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(6) Exercise such other functions as may be provided by law.

The chairman shall seek to expedite judicial business and to equalize the work of the judges, and shall provide for the assignment of any judge to another court of a like or higher jurisdiction to assist a court or judge whose calendar is congested, to act for a judge who is disqualified or unable to act, or to sit and hold court where a vacancy in the office of judge has occurred.

The clerk of the supreme court shall act as secretary of the council.

The several judges shall cooperate with the council, shall sit and hold court as assigned, and shall report to the chairman at such times and in such manner as he shall request respecting the condition, and manner of disposal, of judicial business in their respective courts.

[Compensation]

No member of the council shall receive any compensation for his services as such, but shall be allowed his necessary expenses for travel, board and lodging incurred in the performance of his duties as such. Any judge assigned to a court wherein a judge's compensation is greater than his own shall receive while sitting therein the compensation of a judge thereof. The extra compensation shall be paid in such manner as may be provided by law. Any judge assigned to a court in a county other than that in which he regularly sits shall be allowed his necessary expenses for travel, board and lodging incurred in the discharge of the assignment. [*New section adopted November 2, 1926.*]

[Supreme Court]

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by

Art. VI, § 3

[Supreme Court]

the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any time, and shall be the presiding Justice of the Court when so convened. The concurrence of four Justices present at the argument shall be necessary to pronounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four Judges shall be necessary. In the determination of causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

[Election and Term of Justices]

SEC. 3. The chief justice and the associate justices shall be elected by the qualified electors of the State at large at the general elections, at the time and places at which State officers are elected, except as provided by section 2 $\frac{3}{4}$  of Article II of this Constitution,\* and the term of office shall be twelve years from and after the first day of January next succeeding their election. If a vacancy occur in the office of a justice, the Governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general State or primary election after the first day of April next succeeding the occurrence of such vacancy; the justice then elected shall hold office for the unexpired term; *provided*, that whenever the term of office of the justice whose place is filled by appointment is fixed by law to expire on the first day of January after the next or such succeeding general election, then the person so appointed to fill the vacancy shall hold office for the remainder of such unexpired term.\* [As amended November 6, 1928.]

[Supreme Court Jurisdiction]

SEC. 4. The supreme court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in municipal or justices' courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, [sic] impost, assessment, toll, or municipal fine also, in all such probate matters as may be provided by law; also, on questions of law alone, in all criminal cases where judgment of death has been rendered; the said court shall also have appellate jurisdiction in all cases, matters and proceedings pending before a district court of appeal, which shall be ordered by the supreme court to be transferred to itself for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs

\* See section 28 of this Article.

## Art. VI, § 4a

returnable before himself or the supreme court or before any district court of appeal, or before any justice thereof, or before any superior court in the State, or before any judge thereof. [*As amended November 6, 1928.*]

[District Courts of Appeal]

SEC. 4a. The State is hereby divided into three appellate districts, in each of which there shall be a district court of appeal, consisting of such number of divisions having three justices each as the Legislature shall determine; and until so determined otherwise, the courts of appeal for the first and second appellate districts shall each consist of two divisions, and the court of the third appellate district shall consist of one division.

[New Courts, Divisions]

The Legislature may from time to time create and establish additional district courts of appeal and divisions thereof and fix the places at which the regular sessions thereof shall be held and may provide for the maintenance and operation thereof. For that purpose the Legislature may redivide the State into appellate districts, subject to the power of the supreme court to remove one or more counties from one appellate district to another as in this section provided.

Each of such divisions shall have and exercise all of the powers of the district court of appeal.

The district court of appeal as existing immediately prior to the approval and ratification of this amendment by the people shall not be affected thereby as to the officers or terms of office of the justices thereof.

Upon the creation of any additional division of the district court of appeal the Governor shall appoint three persons to serve as justices thereof until the first day of January after the next general election. The justices of said division elected at such general election shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them at the end of twelve years, and entry of such classification shall be made in the minutes of said division, signed by the three justices thereof, and a duplicate thereof filed in the office of the secretary of state.

[Election and Term of Justices]

The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general State elections except as provided in section 2½ of Article II;† and the term of office of said justices shall be twelve years from and after the first day of January next succeeding their election.

[Vacancies†]

If any vacancy occur in the office of a justice of the district courts of appeal, the Governor shall appoint a person to hold office until the election and qualification of a justice to fill the vacancy. Such election shall take place at the next succeeding general State or primary election after the first day of April next succeeding the occurrence of such vacancy; the justice then elected shall hold office for the unexpired term; *provided*, that whenever the term of office of the justice whose place is filled by appointment is fixed by law to expire on the first day of January after the next or such succeeding general election, then the person so appointed to fill the vacancy shall hold office for the remainder of such unexpired term.†

† See section 26 of this Article.

Art. VI, § 4b

[Presiding Justices]

One of the justices of each of the district courts of appeal, and of each division of said courts, shall be the presiding justice thereof, and as such shall be appointed or elected, as the case may be.

In cases wherein the presiding justice is not acting, the other justices shall designate one of their number to perform the duties and exercise the powers of presiding justice.

The presence of two justices shall be necessary for the transaction of any business by such court except such as may be done at chambers, and the concurrence of two justices shall be necessary to pronounce a judgment.

[Transfer of Appeals]

No appeal taken to the supreme court or to a district court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

All statutes now in force allowing, providing for or regulating appeals to the supreme court shall apply to appeals to the district courts of appeal so far as such statutes are not inconsistent with this article and until the Legislature shall otherwise provide.

[Districts]

The first district shall embrace the following counties: San Francisco, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Fresno,\* Santa Cruz, Monterey and San Benito.

The second district shall embrace the following counties: Tulare,\* Kings,\* San Luis Obispo, Kern,\* Inyo,\* Santa Barbara, Ventura, Los Angeles, San Bernardino,\* Orange,\* Riverside,\* San Diego\* and Imperial.\*

The third district shall embrace the following counties: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Lake, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Sonoma, Napa, Yolo, Placer, Solano, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Stanislaus, Mariposa, Madera, Merced, Tuolumne, Alpine and Mono.

The supreme court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district.

[Sessions]

Said district courts of appeal shall hold their regular sessions respectively at San Francisco, Los Angeles and Sacramento, and they shall always be open for the transaction of business. [New section adopted November 6, 1928.]

[District Court Jurisdiction]

Sec. 4b. The district courts of appeal shall have appellate jurisdiction on appeal from the superior courts (except in cases in which appellate jurisdiction is given to the supreme court) in all cases at law in which the superior courts are given original jurisdiction; also, in all cases of forcible or unlawful entry or detainer (except such as arise in municipal, or in justices' or other inferior courts); in proceedings in insolvency; in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, prohibition, usurpation of office, removal from office, contesting elections, eminent domain, and in such other special proceedings as may be provided by law; also, on questions of law alone,

\* Now in fourth appellate district. See 1929 Stats 1202.

Art. VI, § 4c

in all criminal cases prosecuted by indictment or information, except where judgment of death has been rendered.

The said courts shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the supreme court which shall be ordered by the supreme court to be transferred to a district court of appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the district court of appeal of his district, or before any superior court within his district, or before any judge thereof. [*New section adopted November 6, 1928.*]

[Transfer of Causes]

SEC. 4c. The supreme court shall have power to order any cause pending before the supreme court to be heard and determined by a district court of appeal, and to order any cause pending before a district court of appeal to be heard and determined by the supreme court. The order last mentioned may be made before judgment has been pronounced by a district court of appeal, or within fifteen days in criminal cases, or thirty days in all other cases, after such judgment shall have become final therein. The judgment of the district courts of appeal shall become final therein upon the expiration of fifteen days in criminal cases, or thirty days in all other cases, after the same shall have been pronounced.

The supreme court shall have power to order causes pending before a district court of appeal for one district to be transferred to the district court of appeal for another district, or from one division thereof to another, for hearing and decision. [*New section adopted November 6, 1928.*]

[Miscarriage of Justice]

SEC. 4 $\frac{1}{2}$ . No judgment shall be set aside, or new trial granted, in any case, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. [*As amended November 3, 1914.*] [Findings]

SEC. 4 $\frac{3}{4}$ . In all cases where trial by jury is not a matter of right or where trial by jury has been waived, the Legislature may grant to any court of appellate jurisdiction the power, in its discretion, to make findings of fact contrary to, or in addition to, those made by the trial court. The Legislature may provide that such findings may be based on the evidence adduced before the trial court, either with or without the taking of additional evidence by the court of appellate jurisdiction. The Legislature may also grant to any court of appellate jurisdiction the power, in its discretion, for the purpose of making such findings or for any other purpose in the interest of justice, to take additional evidence of or concerning facts occurring at any time prior to the decision of the appeal, and to give or direct the entry of any judgment or order and to make such further or other order as the case may require. [*New section adopted November 2, 1926.*]

Art. VI, § 5

[Superior Court Jurisdiction]

SEC. 5. The superior courts shall have original jurisdiction in all civil cases and proceedings (except as in this article otherwise provided, [sic] and except, also cases and proceedings in which jurisdiction is or shall be given by law to municipal or to justices or other inferior courts); in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; and of all such special cases and proceedings as are not otherwise provided for; and said court shall have the power of naturalization and to issue papers therefor. [Lower Courts]

The superior courts shall have appellate jurisdiction in such cases arising in municipal and in justices' and other inferior courts in their respective counties or cities and counties as may be prescribed by law. The Legislature may, in addition to any other appellate jurisdiction of the superior courts, also provide for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established, and for the constitution, regulation, jurisdiction, government and procedure of such appellate departments. Superior courts, municipal courts and justices' courts in cities having a population of more than forty thousand inhabitants shall always be open, legal holidays and nonjudicial days excepted. The process of superior courts shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said superior courts, and their judges shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and nonjudicial days. The process of any municipal court shall extend to all parts of the county or city and county in which the city is situated where such court is established, and to such other parts of the State as may be provided by law, and such process may be executed or enforced in such manner as the Legislature shall provide. [Judges Pro Tempore]

Upon stipulation of the parties litigant or their attorneys of record a cause in the superior court or in a municipal court may be tried by a judge pro tempore who must be a member of the bar sworn to try the cause, and who shall be empowered to act in such capacity in the cause tried before him until the final determination thereof. The selection of such judge pro tempore shall be subject to the approval and order of the court in which said cause is pending and shall also be subject to such regulations and orders as may be prescribed by the judicial council. [*As amended November 6, 1928.*] [Superior Courts]

SEC. 6. There shall be in each of the organized counties, or cities and counties, of the State, a superior court, for each of which at least one judge shall be elected by the qualified electors of the county, or city and county, at the general State election.\* There may be as many sessions of a superior court, at the same time, as there are judges elected, appointed or assigned thereto. The judgments, orders, and proceedings of any session of a superior court, held by any one or more of the

\* See section 26 of this Article.

Art. VI, § 7

judges sitting therein, shall be equally effectual as though all the judges of said court presided at such session. [*As amended November 2, 1926.*]

[Presiding Judge]

SEC. 7. The judges of each superior court in which there are more than two judges sitting, shall choose, from their own number, a presiding judge, who may be removed as such at their pleasure. Subject to the regulations of the judicial council, he shall distribute the business of the court among the judges, and prescribe the order of business. [*As amended November 2, 1926.*]

[Terms, Vacancies]

SEC. 8. The term of office of judges of the superior courts shall be six years from and after the first Monday of January after the first day of January next succeeding their election. A vacancy in such office shall be filled at the next succeeding general State election after the first day of April next succeeding the accrual of such vacancy by the election of a judge for a full term to commence on the first Monday of January after the first day of January next succeeding his election. The Governor shall appoint a person to hold such vacant office until the commencement of such term.\* [*As amended November 2, 1926.*]

[Absences. Number of Superior Judges]

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may at any time, two-thirds of the members of the Senate and two-thirds of the members of the Assembly voting therefor, increase or diminish the number of Judges of the Superior Court in any county, or city and county, in the State; *provided*, that no such reduction shall affect any Judge who has been elected.\*

[Removal of Judges]

SEC. 10. Justices of the supreme court, and of the district courts of appeal, and judges of the superior courts may be removed by concurrent resolution of both Houses of the Legislature adopted by a two-thirds vote of each House. All other judicial officers, except justices of the peace, may be removed by the Senate on the recommendation of the Governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the Journal. [*As amended November 8, 1904.*]

SEC. 11. [*As printed in Stats. 1923, p. 1641, repealed November 6, 1928.*]

[Municipal Courts]

SEC. 11. In any city or city and county which is governed under a charter framed and adopted under the authority of this Constitution containing a population of more than forty thousand inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States, a municipal court may be established as in this article provided, anything in this Constitution to the contrary notwithstanding. For each such municipal court at least one judge with such additional judges as may be determined by the Legislature, shall be elected by the qualified electors of the city or city and

\* See section 26 of this Article.



## Art. VI, § 11a

[Municipal Courts]

county at the general municipal election. In any city, or city and county, in which such municipal court shall be established for which there shall be more than one judge the judges of such court may hold as many sessions thereof at the same time as there are judges thereof, and the business thereof shall be apportioned among such judges in the manner prescribed by law.

[Establishment]

The Legislature shall provide by general law for the establishment of such municipal courts in cities or cities and counties in this section specified, and for the constitution, regulation, government, procedure and jurisdiction thereof.

[Personnel]

The manner in which, the time at which, the term for which the judges, clerks and other attaches of municipal courts shall be elected or appointed, the number and qualifications of said judges and of the clerks and other attaches, except as such matters are otherwise provided in this article, shall be prescribed by the Legislature.

[Other Courts]

In any city or city and county where such municipal court has been established, and in townships situated in whole or in part in such city or city and county, there shall be no other court inferior to the superior court, except that the Legislature may provide for the establishment of such inferior courts.

[Transition]

Pending actions, trials, and all pending business of inferior courts within a city or city and county or township, upon the establishment of any such municipal court therein, shall, unless otherwise provided by law, be transferred to and become pending in such municipal court, and all records of such inferior courts shall be transferred to, and thereafter be and become records of, such municipal court.

Upon the establishment of any such municipal court, and until the first election and the qualification of the judge or judges thereof, and the first appointment and the qualification of the clerks and other attaches thereof, the judges or justices, and the clerks and other attaches, of any existing inferior courts in such city, city and county, or township shall become and act as the judges, clerks and attaches respectively of such municipal court. Whenever any city having a municipal court is formed into a consolidated city and county with the combined powers of a city and county, under proceedings therefor as elsewhere in this Constitution provided, such municipal court shall thereupon and thereby be and become the municipal court of such city and county.

[Compensation of Judges of Courts of Record]

The compensation of the justices or judges of all courts of record shall be fixed, and the payment thereof prescribed, by the Legislature.

[As amended November 6, 1934.]

[Inferior Courts]

Sec. 11a. The Legislature shall determine, according to population, the number and jurisdiction of each of the inferior courts in incorporated cities or towns wherein there is no municipal court, and in townships, counties or cities and counties, and the number of judges or justices thereof and their qualifications and compensation, and shall fix by law the powers, duties and responsibilities of each of such courts and of the judges or justices thereof; and may provide that the jurisdiction of such courts shall be exclusive. [New section adopted November 6, 1928.]

[Courts of Record]

Sec. 12. The supreme court, the district courts of appeal, the superior courts, the municipal courts, and such other courts as the

## Art. VI, § 13

Legislature shall prescribe, shall be courts of record. [*As amended November 4, 1924.*] [Municipal Court Jurisdiction]

SEC. 13. Notwithstanding any provision contained in this article, the Legislature may fix by law the jurisdiction of municipal courts and inferior courts in cities having municipal courts which may be established in pursuance of this article, and may fix by law the powers, duties, qualifications and responsibilities of judges thereof.

Any action heretofore taken by the Legislature in fixing exclusive jurisdiction of municipal courts in cases at law is hereby ratified and confirmed. [*As amended November 6, 1928.*] [Superior Court Clerks]

SEC. 14. The county clerks shall be ex officio clerks of the courts of record, other than municipal courts, in and for their respective counties or cities and counties. The Legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law. [*As amended November 4, 1924.*] [Court Fees]

SEC. 15. No judicial officer, except court commissioners, shall receive to his own use any fees or perquisites of office; *provided*, that justices of the peace now holding office shall receive to their own use such fees as are now allowed by law during the terms for which they have been elected. [*As amended October 10, 1911.*] [Opinions: Publication]

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the supreme court and of the district courts of appeal as the supreme court may deem expedient, and all opinions shall be free for publication by any person. [*As amended November 8, 1904.*]

SEC. 17.\* The justices of the supreme court and of the district courts of appeal, and the judges of the superior courts, shall severally, at stated times during their continuance in office, receive for their service such compensation as is or shall be provided by law. The salaries of the judges of the superior court, in all counties having but one judge, and in all counties in which the terms of the judges of the superior court expire at the same time, shall not hereafter be increased or diminished after their election, nor during the term for which they shall have been elected. Upon the adoption of this amendment the salaries then established by law shall be paid uniformly to the justices and judges then in office. The salaries of the justices of the supreme court and of the district courts of appeal shall be paid by the State. One-half of the salary of each superior court judge shall be paid by the State; and the other half thereof shall be paid by the county for which he is elected. On and after the first day of January, A. D. one thousand nine hundred and seven, the justices of the supreme court shall each receive an annual salary of eight thousand dollars, and the justices of the several district courts of appeal shall each receive an annual salary of seven thousand dollars; the said salaries to be payable monthly. [*As amended November 6, 1906.*] [Law Practice, etc.]

SEC. 18. The justices of the supreme court, and of the district courts of appeal and the judges of the superior courts and the municipal

\* See last paragraph of section 11 of this Article.

## Art. VI, § 19

courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected or appointed, and no justice or judge of a court of record shall practice law in or out of court during his continuance in office; *provided, however*, that a judge of the superior court or of a municipal court shall be eligible to election or appointment to a public office during the time for which he may be elected, and the acceptance of any other office shall be deemed to be a resignation from the office held by said judge. [*As amended November 4, 1930.*] [Comments, etc.]

SEC. 19. The court may instruct the jury regarding the law applicable to the facts of the case, and may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses. [*As amended November 6, 1934. Initiative measure.*]

[Style of Process]

SEC. 20. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

[Clerks, Reporters]

SEC. 21. The supreme court shall appoint a clerk of the supreme court; *provided, however*, that any person elected to the office of clerk of the supreme court before the adoption hereof, shall continue to hold such office until the expiration of the term for which he may have been elected. Said court may also appoint a reporter and not more than three assistant reporters of the decisions of the supreme court and of the district courts of appeal. Each of the district courts of appeal shall appoint its own clerk. All the officers herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as shall be prescribed by law, and discharge such duties as shall be prescribed by law, or by the rules or orders of the courts by which they are severally appointed. [*As amended October 10, 1911.*]

SEC. 22. [*Repealed November 4, 1930.*] [Practice Requirement]

SEC. 23. No person shall be eligible to the office of a justice of the supreme court, or of a district court of appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the supreme court of the State for a period of at least five years immediately preceding his election or appointment to such office. [*As amended November 4, 1924.*] [Affidavit. Written Decisions]

SEC. 24. No justice of the supreme court nor of a district court of appeal, nor any judge of a superior court nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the supreme court and of the district courts of appeal shall be given in writing, and the grounds of the decision shall be stated. [*As amended November 4, 1924.*]

SEC. 25. The present supreme court commission shall be abolished at the expiration of its present term of office, and no supreme court

Art. VI, § 28

commission shall be created or provided for after January 1st, A. D. 1905. [*New section adopted November 8, 1904.*] [Judges' Candidacy]

SEC. 26. Within thirty days before the sixteenth day of August next preceding the expiration of his term, any justice of the Supreme Court, justice of a District Court of Appeal, or judge of a superior court in any county the electors of which have adopted the provisions of this section as applicable to the judge or judges of the superior court of such county in the manner hereinafter provided, may file with the officer charged with the duty of certifying nominations for publication in the official ballot a declaration of candidacy for election to succeed himself. If he does not file such declaration the Governor must nominate a suitable person for the office before the sixteenth day of September, by filing such nomination with the officer charged with said duty of certifying nominations. [Ballot Form]

In either event, the name of such candidate shall be placed upon the ballot for the ensuing general election in November in substantially the following form:

---

For-----	
(title of office)	
Shall-----	
(name)	
be elected to the office for the term expiring January-----?	
(year)	

Yes
No

---

No name shall be placed upon the ballot as a candidate for any of said judicial offices except that of a person so declaring or so nominated. If a majority of the electors voting upon such candidacy vote "yes", such person shall be elected to said office. If a majority of those voting thereon vote "no", he shall not be elected, and may not thereafter be appointed to fill any vacancy in that court, but may be nominated and elected thereto as hereinabove provided. [Vacancies]

Whenever a vacancy shall occur in any judicial office above named, by reason of the failure of a candidate to be elected or otherwise, the Governor shall appoint a suitable person to fill the vacancy. An incumbent of any such judicial office serving a term by appointment of the Governor shall hold office until the first Monday after the first day of January following the general election next after his appointment, or until the qualification of any nominee who may have been elected to said office prior to that time. [Confirmations]

No such nomination or appointment by the Governor shall be effective unless there be filed with the Secretary of State a written confirmation of such nomination or appointment signed by a majority of the three officials herein designated as the commission on qualifications. The commission on qualifications shall consist of (1) the Chief Justice of the Supreme Court, or, if such office be vacant, the acting Chief Justice; (2) the presiding justice of the District Court of Appeal of the district in which a justice of a District Court of Appeal or a judge of a superior court is to serve, or, if there be two such presiding justices, the one who has served the longer as such; or, in the case of the nomination or appointment of a justice of the Supreme Court, the

**Art. VII, § 1**

presiding justice who has served longest as such upon any of the District Courts of Appeal; and (3) the Attorney General. If two or more presiding justices above designated shall have served terms of equal length, they shall choose the one who is to be a member of the commission on qualifications by lot, whenever occasion for action arises. The Legislature shall provide by general law for the retirement, with reasonable retirement allowance, of such justices and judges for age or disability.

[Removal of Judges]

In addition to the methods of removal by the Legislature provided by sections 17 and 18 of Article IV and by section 10 of this article, the provisions of Article XXIII relative to the recall of elective public officers shall be applicable to justices and judges elected and appointed pursuant to the provisions of this section so far as the same relate to removal from office.

[Superior Courts]

The provisions of this section shall not apply to the judge or judges of the superior court of any county until a majority of the electors of such county voting on the question of the adoption of such provisions, in a manner to be provided for by the Legislature, shall vote in favor thereof.

[Number of Superior Judges\*]

If the Legislature diminishes the number of judges of the superior court in any county or city and county, the offices which first become vacant, to the number of judges diminished, shall be deemed to be abolished. [*New section adopted November 6, 1934. Initiative measure.*]

**ARTICLE VII****PARDONING POWER**

**SECTION 1.** The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

**ARTICLE VIII****MILITIA**

**SECTION 1.** The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as

\* See section 9 of this Article.

## Art. VIII, § 2

the Legislature shall from time to time direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions. [Flags]

SEC. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.

## ARTICLE IX

## EDUCATION

[Policy]

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

[State Superintendent]

SEC. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

[County Superintendents]

SEC. 3. A Superintendent of Schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the Legislature may authorize two or more counties to unite and elect one Superintendent for the counties so uniting. [School Fund]

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new States under an Act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State. [School System]

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

SEC. 6. The public school system shall include day and evening elementary schools, and such day and evening secondary schools, technical schools, kindergarten schools and normal schools or teachers' colleges, as may be established by the Legislature, or by municipal or district authority. [Elementary Aid]

The Legislature shall add to the State school fund such other means from the revenues of the State as shall provide in said fund for distribution in each school year in such manner as the Legislature shall pro-

## Art. IX, § 61

[Schools]

vide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening elementary schools in the public school system during the next preceding school year.\* [Secondary Aid]

The Legislature shall provide a State high school fund from the revenues of the State for the support of day and evening secondary and technical schools, which for each school year, shall provide for distribution in such manner as the Legislature shall provide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening secondary and technical schools in the public school system during the next preceding school year.\* [County Elementary Tax]

The Legislature shall provide for the levying of a county, and city and county, elementary school tax, by the board of supervisors of each county, and city and county, sufficient in amount to produce a sum of money not less than the amount of money to be received during the current school year from the State for the support of the public day and evening elementary schools of the county, or city and county; *provided* that said elementary school tax levied by any board of supervisors shall produce not less than thirty dollars per pupil in average daily attendance in the public day and evening elementary schools of the county, or city and county, during the next preceding school year.

[County High School Tax]

The Legislature shall provide for the levying of a county, and city and county, high school tax by the board of supervisors of each county, and city and county sufficient in amount to produce a sum of money not less than twice the amount of money to be received during the current school year from the State for the support of the public day and evening secondary and technical schools of the county, or city and county; *provided* that the high school tax levied by the board of supervisors shall produce not less than sixty dollars per pupil in average daily attendance in the public day and evening secondary schools of the county, or city and county, during the next preceding school year. [District Taxes]

The Legislature shall provide for the levying of school district taxes by the board of supervisors of each county, and city and county, for the support of public elementary schools, secondary schools, technical schools, and kindergarten schools, or for any other public school purpose authorized by the Legislature. [Teachers' Salaries]

The entire amount of money provided by the State, and not less than sixty per cent of the amount of money provided by county, or city and county, school taxes shall be applied exclusively to the payment of public school teachers' salaries.

The revenues provided for the public school system for the school year ending June 30, 1921, shall not be affected by this amendment except as the Legislature may provide. [*As amended November 2, 1920. Initiative measure.*] [School Districts]

SEC. 6½. Nothing in this Constitution contained shall forbid the formation of districts for school purposes situate in more than one county † or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the Legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed

\* See also Article XIII, section 15.

† See section 14 of this Article.

## Art. IX, § 7

therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; *provided*, that all such bonds shall be issued subject to the limitations prescribed in section eighteen of article eleven hereof. [*New section adopted November 7, 1922.*]

[Boards of Education. Free Textbooks]

SEC. 7. The Legislature shall provide for the appointment or election of a State board of education, and said board shall provide, compile, or cause to be compiled, and adopt, a uniform series of textbooks for use in the day and evening elementary schools throughout the State. The State board may cause such textbooks, when adopted, to be printed and published by the superintendent of State printing, at the State printing office; and wherever and however such textbooks may be printed and published, they shall be furnished and distributed by the State free of cost or any charge whatever, to all children attending the day and evening elementary schools of the State, under such conditions as the Legislature shall prescribe. The textbooks, so adopted, shall continue in use not less than four years, without any change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said State board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a board of education in each county in the State. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions. [*As amended November 5, 1912.*]

[Sectarianism]

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

[State University]

SEC. 9. The University of California shall constitute a public trust, to be administered by the existing corporation known as "The regents of the University of California," with full powers of organization and government, subject only to such legislative control as may be necessary to insure compliance with the terms of the endowments of the university and the security of its funds. Said corporation shall be in form a board composed of eight ex officio members, to wit: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president of the State Board of Agriculture, the president of the Mechanics Institute of San Francisco, the president of the alumni association of the university and the acting president of the university, and sixteen appointive members appointed by the Governor; *provided, however*, that the present appointive members shall hold office until the expiration of their present terms. The term of the appointive members shall be sixteen years; the terms of two appointive members to expire as heretofore on March first of every even-numbered calendar year, and in case of any vacancy the term of office of the appointee to fill such vacancy, who shall be appointed by the Governor, to be for the balance of the term as to which such vacancy exists. Said corporation shall be vested with the legal title and the management and disposition of the property of the university

[etc]



Art. IX, § 10

[State University]

and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise; *provided*, that all moneys derived from the sale of public lands donated to this State by act of Congress approved July 2, 1862 (and the several acts amendatory thereof), shall be invested as provided by said acts of Congress and the income from said moneys shall be inviolably appropriated to the endowment, support and maintenance of at least one college of agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and mechanic arts, in accordance with the requirements and conditions of said acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of sex. [*As amended November 5, 1918.*]

[Stanford University]

SEC. 10. The trusts and estates created for the founding, endowment and maintenance of the Leland Stanford Junior University, under and in accordance with "An act to advance learning, etc.," approved March ninth, eighteen hundred and eighty-five, by the endowment grant executed by Leland Stanford and Jane Lathrop Stanford on the eleventh day of November, A. D. eighteen hundred and eighty-five, and recorded in liber eighty-three of deeds, at page twenty-three, *et seq.*, records of Santa Clara County, and by the amendments of such grant, and by gifts, grants, bequests, and devises supplementary thereto, and by confirmatory grants, are permitted, approved and confirmed. The board of trustees of the Leland Stanford Junior University, as such, or in the name of the institution, or by other intelligible designation of the trustees or of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest for the benefit of the institution, or of any department thereof, and such property, unless otherwise provided, shall be held by the trustees of the Leland Stanford Junior University upon the trusts provided for in the grant founding the university, and amendments thereof, and grants, bequests and devises supplementary thereto. The Legislature, by special act, may grant to the trustees of the Leland Stanford Junior University corporate powers and privileges, but it shall not thereby alter their tenure, or limit their powers or obligations as trustees. All property now or hereafter held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University, or of any department

## Art. IX, § 11

thereof, may be exempted by special act from State taxation, and all personal property so held, the Palo Alto farm as described in the endowment grant to the trustees of the university, and all other real property so held and used by the university for educational purposes exclusively, may be similarly exempted from county and municipal taxation; *provided*, that residents of California shall be charged no fees for tuition unless such fees be authorized by act of the Legislature. [*New section adopted November 6, 1900.*]

[School of Mechanical Arts]

SEC. 11. All property now or hereafter belonging to "The California School of Mechanical Arts," an institution founded and endowed by the late James Lick to educate males and females in the practical arts of life, and incorporated under the laws of the State of California, November twenty-third, eighteen hundred and eighty-five, having its school buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given. [*New section adopted November 6, 1900.*]

[Academy of Sciences]

SEC. 12. All property now or hereafter belonging to the "California Academy of Sciences," an institution for the advancement of science and maintenance of a free museum, and chiefly endowed by the late James Lick, and incorporated under the laws of the State of California, January sixteenth, eighteen hundred and seventy-one, having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given. [*New section adopted November 8, 1904.*]

[Cogswell Polytechnical College]

SEC. 13. All property now or hereafter belonging to the Cogswell Polytechnical College, an institution for the advancement of learning, incorporated under the laws of the State of California, and having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given. [*New section adopted November 6, 1906.*]

[School Districts]

SEC. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and junior college districts, of every kind and class, and may classify such districts\* [*New section adopted November 2, 1926.*]

[Huntington Library]

SEC. 15. The trusts and estates created for the founding, endowment and maintenance of the Henry E. Huntington Library and Art Gallery, under and in accordance with an act of the Legislature approved March 10, 1885, chapter forty-seven of the Statutes of California of 1885, by the endowment grant executed by Henry E. Huntington and Arabella D. Huntington on the thirtieth day of August,

\* See section 6½ of this Article.

Art. X, § 1

[Huntington Library];

1919, and recorded in book 6937, page 97 of deeds, records of Los Angeles, California, on the fifteenth day of September, 1919, and by the amendments of such grant and by gifts and grants supplementary thereto and by confirmatory grants, are permitted, approved and confirmed. The board of trustees of the Henry E. Huntington Library and Art Gallery, as such, or in the name of the institution, or by other intelligible designation of the trustees, or of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest, for the benefit of the institution, and such property, unless otherwise provided, shall be held by the trustees of the Henry E. Huntington Library and Art Gallery upon the trusts provided for in the grant founding the institution, and amendments thereof and grants supplementary thereto. All property as of July 1, 1929, held in trust for the founding, maintenance or benefit of the Henry E. Huntington Library and Art Gallery and the increments thereof and all personal property received in exchange therefor shall be exempt from taxation. The Legislature may modify, suspend and revive at will the exemption from taxation herein given. The trustees of said institution shall annually report their proceedings to the person who for the time being shall fill the office of Secretary of State of the State of California, and said trustees shall accompany said report with a full account of their financial operations for the preceding year and with a statement of the financial affairs of the institution. [*New section adopted November 4, 1930.*]

## ARTICLE X

## STATE INSTITUTIONS AND PUBLIC BUILDINGS

SECTION 1. There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurring before the expiration of a term, shall hold only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

[Authority Over Prisons]

Sec. 2. The Board of Directors shall have the charge and superintendence of the State Prisons, and shall possess such powers, and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

[Personnel]

Sec. 3. The Board shall appoint the Warden and Clerk, and determine the other necessary officers of the Prisons. The Board shall have power to remove the Wardens and Clerks for misconduct, incompetency, or neglect of duty. All other officers and employees of the Prisons shall be appointed by the Warden thereof, and be removed at his pleasure.

[Compensation of Board]

Sec. 4. The members of the Board shall receive no compensation other than reasonable traveling and other expenses incurred while

Art. X, § 5

engaged in the performance of official duties, to be audited as the Legislature may direct. [Prison Laws]

SEC. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the Board, Wardens, and Clerks, and to carry into effect the provisions of this article. [Convict Labor]

SEC. 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State. [Female Felons]

SEC. 7. The Legislature may provide for the establishment, government, charge and superintendence of an institution or institutions for females convicted of felonies. For this purpose, the Legislature may delegate the government, charge and superintendence of such institution to any public governmental agency, officers, or board, whether now existing or hereafter created by it. Such agency, officers, or board shall have such powers, perform such duties and exercise such functions in respect to other reformatory or penal matters, respecting such females convicted of felonies as the Legislature may prescribe. [Special Treatment]

The Legislature may also provide for punishment, treatment, supervision, custody and care of such females in a manner and under circumstances different from men similarly convicted. [Laws]

All existing statutes, purporting to create such institution or such agency, officer, or board, to so delegate such government, charge and superintendence, to so prescribe such powers, duties, or functions, or to so provide for such punishment, treatment or supervision are hereby ratified, validated and declared to be legally effective; but the Legislature may repeal, amend, or otherwise modify any such statutes [New section adopted November 3, 1936.]

## ARTICLE XI

### CITIES, COUNTIES, AND TOWNS

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State. [County Seats]

SEC. 2. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years. [Boundaries, New Counties]

SEC. 3. The Legislature, by general and uniform laws, may provide for the alteration of county boundary lines, and for the formation of new counties; *provided, however*, that no new county shall be established which shall reduce any county to a population of less than twenty thousand; nor shall a new county be formed containing a less population than eight thousand; nor shall any line thereof pass within five miles of the exterior boundary of the city or town in which the county seat of any county proposed to be divided is situated. Every county which shall be enlarged or created from territory taken from

## Art. XI, § 4

any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken. [*As amended November 8, 1910.*]

SEC. 4. [*Repealed June 27, 1933.*] [County Officers]

SEC. 5. The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of boards of supervisors, sheriffs, county clerks, district attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties and fix their terms of office. It shall regulate the compensation of boards of supervisors, district attorneys and of auditors in the respective counties and for this purpose may classify the counties by population. It may regulate the compensation of grand and trial jurors in all courts within the classes of counties herein permitted to be made. The boards of supervisors in the respective counties shall regulate the compensation of all officers in said counties other than boards of supervisors, district attorneys, auditors, and judges of municipal courts, and shall regulate the number, method of appointment, terms of office or employment, and compensation of all deputies, assistants, and employees of the counties.

[Validation of 1933 Stats. 1674]

The provisions of this section shall not be construed to abridge, modify or otherwise affect the provisions of section 7½, 7½a and 8½ of this article, relating to county or city and county charters. That certain act entitled "An act to add a new section to the Political Code to be numbered 4056d, relating to powers and duties of boards of supervisors with respect to county and township officers, deputies, assistants and employees," as enacted by the Legislature at its fiftieth session, is hereby validated and made fully and completely effective. [Changes]

The compensation of any county, township or municipal officer shall not be increased after his election or during his term of office, nor shall the term of any such officer be extended beyond the period for which he was elected or appointed. The provisions of this section shall not prevent the allowance of any new or additional deputy or assistant to the principal in any county office during his term, nor shall they prevent any increase in the compensation of any deputy or assistant to such principal at any time. [Qualifications]

The provisions of this section shall not abridge, modify or otherwise limit the power of the Legislature by general and uniform laws to prescribe the qualifications of any county officer or of any deputy or assistant, or to prescribe the method of appointment of any person so qualified. [*As amended June 27, 1933.*] [Cities]

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature shall, by general laws, provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed; and the Legislature may, by general laws, provide for the performance by county officers of certain of the municipal functions of cities and towns so incorporated, whenever a majority of the electors of any such city or town voting at a general or special election shall so determine. Cities and towns heretofore organized or incorporated may become organized under the general laws passed for that purpose,

## Art. XI, § 7

whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith. Cities and towns hereafter organized under charters framed and adopted by authority of this Constitution are hereby empowered, and cities and towns heretofore organized by authority of this Constitution may amend their charters in the manner authorized by this Constitution so as to become likewise empowered hereunder, to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters, and in respect to other matters they shall be subject to and controlled by general laws. Cities and towns heretofore or hereafter organized by authority of this Constitution may, by charter provision or amendment, provide for the performance by county officers of certain of their municipal functions, whenever the discharge of such municipal functions by county officers is authorized by general laws or by the provisions of a county charter framed and adopted by authority of this Constitution. [*As amended November 3, 1914.*] ["Cities and Counties"]

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government. [*As amended November 6, 1894.*] [County Charters]

SEC. 7<sup>1</sup>.<sup>\*</sup> <sup>1</sup> Any county may frame a charter for its own government consistent with and subject to the Constitution (or, having framed such a charter, may frame a new one.) and relating to matters authorized by provisions of the Constitution, by causing a board of fifteen freeholders, who have been for at least five years qualified electors thereof, to be elected by the qualified electors of said county, at a general or special election. <sup>2</sup> Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three-fifths of all the members of the board of supervisors of such county, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said county, or in pursuance of a petition of qualified electors of said county as hereinafter provided. <sup>3</sup> Such petition, signed by fifteen per centum of the qualified electors of said county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for said county, may be filed in the office of the county clerk. It shall be the duty of said county clerk, within twenty days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of electors of the county, whether said petition is signed by the requisite number of qualified electors. If required by said clerk, the board of supervisors shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination,

\* The subsection numbers (superior figures) are added

Art. XI, § 7½

[County Charters]

said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. <sup>4</sup> Upon the adoption of such ordinance, or the presentation of such petition, said board of supervisors shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than twenty days nor more than sixty days after the adoption of the ordinance aforesaid or the presentation of said petition to said board of supervisors; *provided*, that if a general election shall occur in said county not less than twenty days nor more than sixty days after the adoption of the ordinance aforesaid, or such presentation of said petition to said board of supervisors, said board of freeholders may be elected at such general election. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general law for the nomination, by petition of electors, of candidates for county offices, to be voted for at general elections. <sup>5</sup> It shall be the duty of said board of freeholders, within one hundred and twenty days after the result of such election shall have been declared by said board of supervisors, to prepare and propose a charter for said county, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the county clerk of said county and the other in the office of the county recorder thereof. <sup>6</sup> Said board of supervisors shall thereupon cause said proposed charter to be published for at least ten times in a daily newspaper of general circulation, printed, published and circulated in said county; *provided*, that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be published for at least three times in at least one weekly newspaper, of general circulation, printed, published and circulated in such county; *and provided*, that in any county where neither such daily nor such weekly newspaper is printed, published and circulated, a copy of such proposed charter shall be posted by the county clerk in three public places in said county, and on or near the entrance to at least one public schoolhouse in each school district in said county, and the first publication or the posting of such proposed charter shall be made within fifteen days after the filing of a copy thereof, as aforesaid, in the office of the county clerk. <sup>7</sup> Said proposed charter shall be submitted by said board of supervisors to the qualified electors of said county at a special election held not less than thirty days nor more than sixty days after the completion of such publication, or after such posting; *provided*, that if a general election shall occur in said county not less than thirty days nor more than sixty days after the completion of such publication, or after such posting, then such proposed charter may be so submitted at such general election. <sup>8</sup> If a majority of said qualified electors, voting thereon at such general or special election, shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be forthwith sub-

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The subsection numbers (superior figures) are added.

## Art. XI, § 7½

mitted to the Legislature, if it be in regular session, otherwise at its next regular session, or it may be submitted to the Legislature in extraordinary session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each House, such charter shall become the charter of such county and shall become the organic law thereof relative to the matters therein provided, and supersede any existing charter framed under the provisions of this section, and all amendments thereof, and shall supersede all laws inconsistent with such charter relative to the matters provided in such charter. <sup>9</sup> A copy of such charter, certified and authenticated by the chairman and clerk of the board of supervisors under the seal of said board and attested by the county clerk of said county, setting forth the submission of such charter to the electors of said county, and its ratification by them, shall, after the approval of such charter by the Legislature, be made in duplicate, and filed, one in the office of the Secretary of State and the other, after being recorded in the office of the recorder of said county, shall be filed in the office of the county clerk thereof, and thereafter all courts shall take judicial notice of said charter.

[Amendments]

<sup>10</sup> The charter, so ratified, may be amended by proposals therefor submitted by the board of supervisors of the county to the qualified electors thereof at a general or special election held not less than thirty days nor more than sixty days after the publication of such proposals for ten times in a daily newspaper of general circulation, printed, published and circulated in said county; *provided*, that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be published for at least three times in at least one weekly newspaper, of general circulation, printed, published and circulated in such county; *provided*, that in any county where neither such daily nor such weekly newspaper is printed, published and circulated, a copy of such proposed charter shall be posted by the county clerk in three public places in said county, and on or near the entrance to at least one public schoolhouse in each school district in said county. <sup>11</sup> If a majority of such qualified electors voting thereon, at such general or special election, shall vote in favor of any such proposed amendment or amendments, or any amendment or amendments proposed by petition as hereinafter provided, such amendment or amendments shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or may be submitted to the Legislature in extraordinary session, for approval or rejection as a whole, without power of alteration or amendment, and if approved by the Legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. <sup>12</sup> A copy of such amendment or amendments shall, after the approval thereof by the Legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. <sup>13</sup> Whenever a petition signed by ten per centum of the qualified electors of any county, computed upon the total number of votes cast in said county for all candidates for Governor at the last general election, at

[sic]

[sic]



Art. XI, § 7]

[County Charters]

which a Governor was elected, is filed in the office of the county clerk of said county, petitioning the board of supervisors thereof to submit any proposed amendment or amendments to the charter of such county, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and certified by the county clerk, and if signed by the requisite number of qualified electors of such county, shall be presented to the said board of supervisors, by the said county clerk, as hereinbefore provided for petitions for the election of boards of freeholders. <sup>14</sup> Upon the presentation of said petition to said board of supervisors, said board must submit the amendment or amendments set forth therein to the qualified electors of said county at a general or special election held not less than thirty days nor more than sixty days after the publication or posting of such proposed amendment or amendments in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the board of supervisors. <sup>15</sup> In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the electors, and may be voted on separately without prejudice to others.

[Elections]

<sup>16</sup> Every special election held under the provisions of this section, for the election of boards of freeholders or for the submission of proposed charters, or any amendment or amendments thereto, shall be called by the board of supervisors, by ordinance, which shall specify the purpose and time of such election and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance, prior to such election, shall be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper, printed, published and circulated in said county; *provided*, that if no such daily or weekly newspaper be printed or published in such county, then a copy of such ordinance shall be posted by the county clerk in three public places in such county and in or near the entrance to at least one public schoolhouse in each school district therein. In all other respects, every such election shall be held and conducted, the returns thereof canvassed and the result thereof declared by the board of supervisors in the same manner as provided by law for general elections. Whenever boards of freeholders shall be elected, or any such proposed charter, or amendment or amendments thereto, submitted, at a general election, the general laws applicable to the election of county officers and the submission of propositions to the vote of electors, shall be followed in so far as the same may be applicable thereto.

[Required Provisions]

<sup>17</sup> It shall be competent, in all charters, framed under the authority given by this section to provide, in addition to any other provisions allowable by this Constitution, and the same shall provide, for the following matters:

[Supervisors]

1. For boards of supervisors and for the constitution, regulation and government thereof, for the times at which and the terms for

## Art. XI, § 7½

which the members of said board shall be elected, for the number of members, not less than three, that shall constitute such boards, for their compensation and for their election, either by the electors of the counties at large or by districts; *provided*, that in any event said board shall consist of one member for each district, who must be a qualified elector thereof; and

[Other Officers]

2. For sheriffs, county clerks, treasurers, recorders, license collectors, tax collectors, public administrators, coroners, surveyors, district attorneys, auditors, assessors and superintendents of schools, for the election or appointment of said officers, or any of them, for the times at which and the terms for which, said officers shall be elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors, and, if appointed, for the manner of their appointment; and

[Court Officers\*]

3.\* For the number of justices of the peace and constables for each township, or for the number of such judges and other officers of such inferior courts as may be provided by the Constitution or general law, for the election or appointment of said officers, for the times at which and the terms for which said officers shall be elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors, and if appointed, for the manner of their appointment; and

[Officers' Powers]

4. For the powers and duties of boards of supervisors and all other county officers, for their removal and for the consolidation and segregation of county offices, and for the manner of filling all vacancies occurring therein; *provided*, that the provisions of such charters relating to the powers and duties of boards of supervisors and all other county officers shall be subject to and controlled by general laws; and

4½. For the assumption and discharge by county officers of certain of the municipal functions of the cities and towns within the county, whenever, in the case of cities and towns incorporated under general laws, the discharge by county officers of such municipal functions is authorized by general law, or whenever, in the case of cities and towns organized under section eight of this article, the discharge by county officers of such municipal functions is authorized by provisions of the charters, or by amendments thereto, of such cities or towns.

[County Employees]

5. For the fixing and regulation by boards of supervisors, by ordinance, of the appointment and number of assistants, deputies, clerks, attaches and other persons to be employed, from time to time, in the several offices of the county, and for the prescribing and regulating by such boards of the powers, duties, qualifications and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal; and

6. For the compensation of such fish and game wardens, probation and other officers as may be provided by general law, or for the fixing of such compensation by boards of supervisors

[Elections]

<sup>18</sup> All elective officers of counties, and of townships, of road districts and of highway construction divisions therein shall be nominated and elected in the manner provided by general laws for the nomination and election of such officers.

\* See Article VI, sections 11, 11a, and 13.

Art. XI, § 71

[County Charters: Optional Provisions]

<sup>19</sup> All charters framed under the authority given by this section, in addition to the matters hereinabove specified, may provide as follows:

For offices other than those required by the Constitution and laws of the State, or for the creation of any or all of such offices by boards of supervisors, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors.

For offices hereafter created by this Constitution or by general law, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors.

[Roads]

For the formation, in such counties, of road districts for the care, maintenance, repair, inspection and supervision only of roads, highways and bridges; and for the formation, in such counties, of highway construction divisions for the construction only of roads, highways and bridges; for the inclusion in any such district or division, of the whole or any part of any incorporated city or town, upon ordinance passed by such incorporated city or town authorizing the same, and upon the assent to such inclusion by a majority of the qualified electors of such incorporated city or town, or portion thereof, proposed to be so included, at an election held for that purpose; for the organization, government, powers and jurisdiction of such districts and divisions, and for raising revenue therein, for such purposes, by taxation, upon the assent of a majority of the qualified electors of such districts or divisions, voting at an election to be held for that purpose; for the incurring of indebtedness therefor by such counties, districts or divisions for such purposes respectively, by the issuance and sale, by the counties, of bonds of such counties, districts or divisions, and the expenditure of the proceeds of the sale of such bonds, and for levying and collecting taxes against the property of the counties, districts or divisions, as the case may be, for the payment of the principal and interest of such indebtedness at maturity; *provided*, that any such indebtedness shall not be incurred without the assent of two-thirds of the qualified electors of the county, district or division, as the case may be, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also for a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same, and the procedure for voting, issuing and selling such bonds shall, except in so far as the same shall be prescribed in such charters, conform to general laws for the authorizing and incurring by counties of bonded indebtedness, so far as applicable; *provided, further*, that provisions in such charters for the construction, care, maintenance, repair, inspection and supervision of roads, highways and bridges for which aid from the

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The subsection numbers (superior figures) are added.

## Art. XI, § 7½a

State is granted, shall be subject to such regulations and conditions as may be imposed by the Legislature. [Effect of Adoption]

<sup>20</sup> Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature, as herein provided, the general laws adopted by the Legislature in pursuance of sections four and five of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided; and except that any such charter shall not affect the tenure of office of the elective officers of the county, or of any district, township or division thereof, in office at the time such charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they shall have been elected, unless sooner removed in the manner provided by law. [Surrender of Charter]

<sup>21</sup> The charter of any county, adopted under the authority of this section, may be surrendered and annulled with the assent of two-thirds of the qualified electors of such county, voting at a special election, held for that purpose, and to be ordered and called by the board of supervisors of the county upon receiving a written petition, signed and certified as hereinabove provided for the purposes of the adoption of charters, requesting said board to submit the question of the surrender and annulment of such charter to the qualified electors of such county, and, in the event of the surrender and annulment of any such charter, such county shall thereafter be governed under general laws in force for the government of counties.

<sup>22</sup> The provisions of this section shall not be applicable to any county that is consolidated with any city. [*As amended November 3, 1914.*]

[Alameda County Enabling Amendment\*]

SEC. 7½a.\* Any county organized under the general law, and having, at the time this section takes effect, a population of two hundred thousand inhabitants or over, as ascertained by the last preceding census taken under authority of the Congress of the United States, and having within its territorial boundaries one or more incorporated cities or towns, may frame a charter for a consolidated city and county government, by causing a board of fifteen freeholders, who have been for at least five years qualified electors of the county, to be elected by the qualified electors of said county, at a special election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three-fifths of all of the members of the board of supervisors of such county, declaring that public interest requires the election of such board of freeholders for the purpose of preparing and proposing a charter for a consolidated city and county, with or without a system of boroughs, with combined powers of a city and a county, as in this Constitution provided for city and county government; or in pursuance of a petition of qualified electors of said county as hereinafter provided; which said petition must state the name and address of a person or persons to whom notice of the insufficiency of the petition shall be sent in the event that the petition

\* This section is no longer effective. See *Wallace vs. Board of Supervisors* (1934) 2 Cal. 2d, 109.

## Art. XI, § 7½a

[Alameda County]

shall not have the required number of signatures of the qualified electors signed thereto. Such petition, signed by fifteen per centum of the qualified electors of said county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for a consolidated city and county government, with or without a system of boroughs, with combined powers of a city and a county, as in this Constitution provided, may be filed in the office of the county clerk. It shall be the duty of the said county clerk, within twenty days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of the electors of the county, whether said petition is signed by the requisite number of qualified electors. If required by said clerk, the board of supervisors shall authorize him to employ persons to assist him in the work of examining such petition, and the board shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the results of his examination, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. If it appear by said certificate that said petition has not the required number of signatures of the qualified electors signed thereto, the said clerk shall so notify the person or persons whose name or names are mentioned therein, to whom the notification of the insufficiency of the petition shall be sent. Whereupon the petitioners shall have thirty days from and after the date of receiving the notice of insufficiency from the clerk, to present and file additional signatures. Upon the receipt of the additional signatures, the clerk shall proceed forthwith to examine the petition of additional signatures, so that such examination shall be completed within ten days from the date of his receiving same. If it appear that the number of additional signatures added to those who have not been legally rejected upon the original petition, shall total the requisite number of qualified electors necessary as provided in this section, the clerk shall forthwith attach to said petition his certificate, properly dated, showing that said petition has been signed by the requisite number of qualified electors, and said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at the next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said board of supervisors shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than forty days nor more than ninety days after the adoption of the ordinance aforesaid or the presentation of said petition to said board of supervisors. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general law for the nomination, by petition of electors, of candidates for county offices, to be voted at general elections. The election shall be conducted and the ballots canvassed

## Art. XI, § 7ja

and result declared substantially as are other elections for county offices, except that there shall be only one election, and the fifteen persons receiving the highest vote shall be declared the duly elected board of freeholders. All ties shall be broken by lot.

It shall be the duty of said board of freeholders within one hundred and eighty days after the result of such election shall have been declared by the board of supervisors, to prepare and propose a charter for a consolidated city and county government, and it may prescribe the existing boundary lines of the county as the territorial limits of said proposed city and county, and propose the formation of all of the incorporated cities and towns and all of the unincorporated territory within the county into a consolidated city and county government, to be governed by said charter, and to have combined powers of a city and a county, as provided in this Constitution for consolidated city and county government. Or said board of freeholders may propose, in the alternative, that a lesser area than that of the whole county, to consist of those incorporated cities and towns hereinafter required to be designated and named by the board of freeholders as necessary and essential to effect consolidation, also those incorporated cities and towns, which as hereinafter provided, may by a majority vote of the qualified electors voting thereon separately, vote in favor of such consolidation, together with any unincorporated territory within the county proposed to be added, may be formed into a consolidated city and county government, to be governed by said charter, and to have combined powers of a city and a county as provided in this Constitution for consolidated city and county government.

When such proposal is submitted in the alternative, the board of freeholders must designate and name as necessary and essential to effect city and county consolidation, all of the incorporated cities within the county having a population of one hundred fifty thousand inhabitants or over, as ascertained by the last preceding census taken under the authority of the Congress of the United States, and no consolidation shall be effected unless, as hereinafter provided, a majority of the qualified electors, voting separately thereon in each of said designated and named incorporated cities vote in favor of such proposal.

The charter proposed shall be signed by the members of the board of freeholders, or a majority of them, and be filed, one copy in the office of the county recorder, one in the office of the county clerk, and certified copies thereof duly attested by the president and secretary of the board of freeholders shall be filed in the clerk's office of each incorporated city and town in the county. The board of freeholders shall thereupon take a recess until called together by the board of supervisors as hereinafter provided. Thereupon the board of supervisors shall cause said proposed charter to be published in at least two daily newspapers of general circulation published, printed and circulated in the county, for at least six consecutive times, and shall also cause said proposed charter to be published for at least three consecutive times in a daily newspaper of general circulation, printed, published and circulated in each of the incorporated cities and towns within the county, and if there be no daily newspaper printed, published and circulated in any of such incorporated cities and towns then once in a weekly

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[Alameda County]

newspaper published, printed and circulated therein; *provided, however*, if there be no daily or weekly newspaper published, printed and circulated in any of such incorporated cities or towns, then said publication shall be made by posting in three public places in each of said incorporated cities or towns having no such newspaper, for at least three days. All of such publication shall be completed within fifty days of the filing of the proposed charter with the county clerk. The board of supervisors shall cause to be printed in pamphlet form, at least as many copies of such proposed charter, plus an additional fifteen per cent, as there are registered electors in the county. The county clerk shall forthwith deliver to the clerk of the legislative body of each and every incorporated city or town within the county, a number of the printed copies of the proposed charter, equal at least to the number of registered electors residing in any such incorporated city or town. The county clerk shall thereupon give notice, by advertising in one and not more than two daily newspapers of general circulation published, printed and circulated in the county, and if there be a newspaper published, printed and circulated in any of such incorporated cities and towns, in one such newspaper of each said city or town, that copies of the proposed charter can be had at his office or at the office of the several city or town clerks, designating them, upon application. Upon the completion of the publication of the proposed charter as above required, and not later than fifteen days thereafter, the board of supervisors must pass an ordinance or resolution calling a separate election in each of the incorporated cities and towns within the county, for submitting the proposal for consolidation to the electors thereof. Each incorporated city or town shall be considered one separate district, and the proposal for such consolidation shall be submitted separately to the electors thereof, as hereinafter provided. The date of such election shall be fixed in the resolution or ordinance adopted by the board of supervisors, which date shall not be less than forty days nor more than ninety days from the date of the passage of such resolution or ordinance calling the election for the submission of said proposal. The separate elections held in the several cities and towns must all be held on the same day. The resolution or ordinance calling such elections shall be published for five successive days in one daily newspaper of general circulation published, printed and circulated in the county, so that the last publication shall have been completed at least five days before the date of the election. The resolution or ordinance calling such elections, shall also be published for three successive days in one daily newspaper of general circulation, published, printed and circulated in each of the incorporated cities and towns, and if there be no daily newspaper published, printed and circulated in any of such incorporated cities and towns, then twice in a weekly newspaper; *provided, however*, that if there be no daily or weekly newspaper published, printed and circulated in any such incorporated city or town, such publication may be made by posting in three public places in said incorporated city or town for at least three days before the date of election.

The board of supervisors must appoint election officers in the same manner and give notice of such appointment by publication, as provided by the general law for the appointment of election officers at

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general elections; *provided, however*, that the board of supervisors shall not appoint more than four election officers to each election precinct; *and provided, further*, that the number of precincts in each city or town comprising an election district shall not be less than the number of precincts used at the last general election. In all other respects, every such election shall be held and conducted, the returns canvassed and the result thereof declared by the board of supervisors in the same manner as provided by law for general elections.

The proposal to be submitted to the electors of each of said incorporated cities and towns shall be substantially as follows: "Shall the (herein designate by name the incorporated city or town) join with the other incorporated cities and towns within the county of (herein insert name of county) together with the unincorporated territory within the said county, and form and establish a consolidated city and county (herein insert whether it is proposed to have a system of boroughs) to be known as the city and county of (herein insert the name proposed) to be governed by the charter proposed by the board of freeholders, which charter has been filed in the office of the county clerk and duly published, said charter to take effect on (herein insert date mentioned in charter when city and county consolidation shall take effect)?" If the board of freeholders have proposed an alternative proposition, the ballot shall, in addition to the above proposal, state substantially: that if said principal proposal does not receive a majority vote of the electors, voting thereon, in all of the incorporated cities and towns within the county, but receives a majority vote of the electors, voting thereon in each of the incorporated cities within the county (naming them) which have been designated and named as the cities necessary and essential in which a favorable vote must be had to effect consolidation of an area less than the whole of the county, then the proposition of the formation and establishment of a district into a consolidated city and county, which district shall include said named incorporated cities, also other contiguous incorporated cities and towns in which a favorable vote was had upon the proposition, and certain unincorporated territory (which district shall be the area described in the proposed amended charter), shall be thereafter submitted to the qualified electors of such district for their approval. Also there must be stated in such proposal such reference to taxation and bonded indebtedness and the liability therefor as is provided in the proposed charter.

If after the canvass of the votes and the declaration of the result by the board of supervisors, it appear that a majority of the electors in each of the incorporated cities and towns in the county, voting separately thereon at said election, have voted in favor of said proposal, the board of supervisors shall so certify such fact to the board of freeholders and set a day for the reconvening of said board of freeholders which day shall not be later than ten days after the certification by the board of supervisors. The board of freeholders shall enter the certificate of the board of supervisors in its minutes and shall have no power to change or alter in any manner any of the provisions of the charter as heretofore prepared and published. It shall thereupon adjourn.



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Whereupon the said proposed charter shall be submitted by said board of supervisors to the qualified electors of the whole of said county at a special election to be held not less than thirty nor more than sixty days after the adjournment of the board of freeholders, or if there be a general election held within ninety days after the adjournment of the said board of freeholders, then at such general election.

If a majority of the qualified electors voting thereon in the county, at such special or general election, shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in session, otherwise at its next regular or special session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be by concurrent resolution, and if approved by a majority vote of the members elected to each House, such charter shall become the charter of such consolidated city and county and shall become the organic law thereof relative to matters therein provided, and shall supersede any existing municipal charter of the cities within the county and all amendments thereof, and shall supersede all laws inconsistent with such charter relative to matters provided in such charter.

If it appear, after a canvass of the votes by the board of supervisors, that the proposal has not received a favorable vote in all of the incorporated cities and towns within the county, and the proposal submitted shall have provided in the alternative that a lesser territory than that of the whole, not less than the incorporated cities designated and set forth in the proposal as necessary and essential to effect consolidation, may form and establish a consolidated city and county government, and a majority of the electors in each of the said incorporated cities designated as necessary and essential to effect consolidation have voted in favor of such proposal, the board of supervisors shall so certify the fact to the board of freeholders, and also certify all other incorporated cities or towns in which a majority of the electors have voted in favor of such proposal. The board of freeholders shall, within fifteen days thereafter, reconvene and meet upon a day to be fixed by the board of supervisors, and shall proceed to rearrange and define the boundaries for the proposed new city and county, including therein all of the incorporated cities certified by the board of supervisors, in which a majority of the electors have voted in favor thereof, and which by the terms of the proposal were designated as necessary and essential to effect consolidation. The board of freeholders must also include in the boundaries for the new proposed city and county any incorporated city or town having a population of less than ten thousand inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States, which, if such new proposed city and county is formed, would be surrounded by such area proposed to be formed into a city and county, or which is contiguous thereto and not contiguous to the largest area of the remainder of the original county from which the proposed city and county proposes to separate, notwithstanding that the result of the election in any such incorporated city or town as shown by the canvass of the votes of the board of supervisors, was unfavorable thereto. The board of freeholders may also include in the boundaries of the proposed new city and county,

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other incorporated cities or towns, not designated and named as necessary and essential to effect consolidation, but in each of which a majority of the electors have voted in favor of such proposal, together with such unincorporated territory within the county as it may desire, the whole to form one compact area, no part of which shall be disconnected from the remainder thereof.

No amendment or changes in the provisions or sections of the proposed charter as originally prepared, published and filed in the office of the county clerk, shall be made by the board of freeholders at its second session, except as herein provided. The board of freeholders at its second session, shall have power to change the territorial limits or boundaries in such charter as hereinbefore provided. It shall also have power to change the number, by reduction thereof, of boroughs and of the councilmanic or supervisorial districts and the number of councilmen or supervisors to be elected, and to rearrange and number said districts to conform to the area to be formed into a city and county, except that boroughs previously established by the charter, if their territory is within the area of the proposed city and county shall not be changed. It may also provide a lesser salary to be paid to any officer of the proposed city and county, if such salary is stated and fixed by the original proposed charter, and it may correct any mistake or clerical or typographical errors.

The board of freeholders shall complete its labors, as above required, within ten days after the date fixed by the board of supervisors for its second meeting unless given an additional ten days time by said board of supervisors. Within said ten days and not later than twenty days, if such time has been extended, the members of the board of freeholders, or a majority thereof, shall sign the proposed charter as amended, and file one copy thereof in the county recorder's office and two copies in the county clerk's office, one of which copies shall thereafter be filed by the county clerk, in the archives of the new city and county government, when the charter shall have been approved by the Legislature.

The provisions of section two of this article, and also those provisions of section three of this article which refer to the passing of any county line within five miles of the exterior boundary of a city or town in which a county seat of any county proposed to be divided is situated shall not apply to the formation of such consolidated cities and counties, nor to the formation of new counties or of any city and county as herein specified under any of the provisions of this section.

Within ten days after the filing of the proposed charter as amended by the board of freeholders, with the county clerk, the whole area of the proposed new city and county shall, by resolution of the board of supervisors, be created into a district, for the purpose of submitting the proposed charter, as amended, to the electors thereof for their approval. The question of the adoption of the proposed charter as amended, shall be submitted to the electors of the whole of the area proposed to be formed into a consolidated city and county as one proposal.

The board of supervisors shall forthwith, and not later than twenty days from the date of the resolution creating said district, pass an

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ordinance or resolution calling an election in the whole county, for the purpose of submitting the question of the consent of the electors of the whole county to the separation, of the district proposed in the charter, from the original county, and for the purpose of submitting the question of the adoption of the proposed charter to the electors residing within the district created, or the proposed territory described in the charter as amended, as the territorial boundaries of the proposed new city and county.

Both propositions or proposals shall be submitted at one election, as hereinafter provided. The date of such election shall be fixed in the resolution or ordinance calling such election, which date shall not be less than twenty days nor more than sixty days from the date of the passage of the resolution or ordinance calling such election.

The resolution or ordinance calling such election shall be published for five consecutive days in not less than two daily newspapers, if there be two, if not, in one daily newspaper of general circulation published, printed and circulated in the county; or if there be no such daily newspapers, then twice in at least one weekly newspaper published, printed and circulated in the county. Such resolution or ordinance shall also be published for a like time in at least one daily newspaper of general circulation published, printed and circulated within the area or territory proposed to be formed into a consolidated city and county.

The amended sections of the charter shall also be published for three consecutive days in at least one daily newspaper published, printed and circulated in the county, and if there be no daily newspaper published, printed and circulated in the county, then twice in a weekly newspaper published, printed and circulated in the county. Such amended sections of the charter shall likewise be published in at least one daily newspaper published, printed and circulated within the area or district proposed to be formed into a city and county, and if there be no such daily newspaper thence twice in a weekly newspaper published, printed and circulated in such area.

The board of supervisors must appoint election officers in the same manner, and give notice of such appointment by publication, as provided by the general law for the appointment of election officers at general elections, except that no more than four election officers shall be appointed to each election precinct. In all other respects, every such election shall be conducted, the returns canvassed and the result declared by the board of supervisors in the same manner as provided by law for general elections.

The proposal to be submitted to the electors of the whole of the county and the proposals to be submitted to the electors of the district or area described in the charter as the territorial boundaries of the proposed new city and county, shall be as follows:

In the county outside of the district or area described in the charter as the territorial boundaries of the new consolidated city and county, the only proposal to be submitted to the electors thereof shall be substantially as follows:

“Shall the incorporated cities and towns (herein name them) and the unincorporated territory (if any) (herein describe the unincor-

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porated territory) be permitted to separate from (herein name the county) and establish a consolidated city and county to be known as (herein insert name of new county) the separation to take effect on (herein name date fixed in the proposed charter for the taking effect of the new city and county government)?"

In the district created by the resolution of the board of supervisors, which shall be the area described in the amended proposed charter, the same proposal as above shall be submitted to the electors, and also shall be submitted separately the question of the establishing of the area into a new consolidated city and county and the approval and ratification of such charter, substantially in the following form: "Shall the (herein describe the territory as described in the proposed amended charter) consolidate and be formed and established into a city and county government to be known as (herein state name of city and county) (herein state whether there shall be a system of boroughs) and shall the charter prepared, published and filed in the office of the county clerk on (herein state the date upon which the amended charter as to boundaries was filed) be adopted as the charter of the consolidated city and county, to take effect (herein state date mentioned in the charter when the consolidation shall take effect)?" Also may be stated in this proposal such reference to taxation and bonded indebtedness and the liability therefor as provided in the proposed charter.

Upon consent to the separation of such district being given by a majority of the qualified electors, voting thereon, at such election, in the whole of the county, and upon the approval and ratification of such charter by a majority of the qualified electors voting thereon in the district or area which is to be formed into a consolidated city and county, and by the approval of said charter by the Legislature, as hereinbefore provided in this section for the submission of the charter to the Legislature when the whole of the county is to be formed into a consolidated city and county, said charter shall be deemed adopted, and upon the date fixed in said charter such district shall be and become one consolidated city and county, and the charter shall become the organic law thereof relative to matters therein provided, and shall supersede any existing municipal charter of the cities consolidated by it, and shall likewise supersede all laws inconsistent with such charter relative to matters provided in such charter.

It shall be competent, in any charter, or amendment thereof, framed under the authority given by this section, to provide in addition to those provisions allowable by the Constitution and laws of the State as follows:

1. For the merging and consolidating the cities and county into one municipal government with one set of officers; for the establishment of a borough system of government for the whole or any part of the territory of said city and county, by which one or more districts may be created therein, which districts may be known as boroughs and shall exercise such municipal powers as may be granted by such charter, and for the organization, constitution, regulation, government and jurisdiction of such boroughs, which organization, constitution, regulation, government and jurisdiction may provide for rural districts, with dif-

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ferent powers and organization, constitution, regulation, government and jurisdiction from other boroughs; *provided*, that in the event of such establishment or creation of a borough or boroughs, as hereinabove permitted, the boundaries thereof shall never afterwards be changed or altered, nor shall the governmental rights, powers or jurisdiction of any such borough or boroughs be thereafter limited, extended, modified or taken away, unless and until the borough or boroughs affected by such proposed change or alteration of boundaries, or by the proposed limitation, extension, modification or taking away of governmental rights, powers or jurisdiction, as the case may be, shall each have consented thereto, by the vote of a majority of the electors in each and every such borough voting at an election or elections called and held for such purpose in each of the boroughs so affected.

2. For the consolidation and merging of school and high school and union high school districts into one or more school, high school and union high school district within the city and county, to be governed by one board of education and one school superintendent, and may provide separate organization, constitution, regulation, government and jurisdiction and powers for rural school districts, if any are established.

3. For the constitution, regulation, government and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; and for the establishment, constitution, regulation, government and jurisdiction of municipal courts with such civil and criminal jurisdiction as by law may be conferred upon inferior courts; and for the manner in which, the time at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; *provided*, such municipal courts shall never be deprived of the jurisdiction given inferior courts created by general law; *provided*, that in any city and county, when such municipal court has been established, there shall be no other court inferior to the superior court; and pending actions, trials, and all pending business of inferior courts within the territory of such city or city and county, upon the establishment of any such municipal court, shall be and become pending in such municipal court, and all records of such inferior court shall thereupon be and become the records of such municipal court.

4. For the manner in which, the times at which, and the terms for which the members of the board of education or boards shall be elected or appointed, for the qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

5. For the manner in which, the times at which, and the terms for which the members of the board or boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

6. For the manner in which and the times at which any municipal election, or borough election shall be held and the result thereof deter-

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mined; and for manner in which, the times at which, and the terms [etc] for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches, and for all expenses incident to the holding of any election.

It shall be competent in any charter framed in accordance with the provisions of this section, for any consolidated city and county, and plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, for the powers and duties of all county, city and county, municipal and borough officers; for the manner in which, the method by which, and the terms for which the several county, city and county, municipal and borough officers, except judges of the superior court shall be elected or appointed, and for their recall and removal. and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the powers and duties, compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees.

7. It shall be competent in any charter, or amendment thereto, framed in accordance with the provisions of this section, to provide that the city and county may make and enforce all laws and regulations, and exercise all rights and powers in respect to municipal affairs and municipal officers, and shall have all powers and rights appropriate to a county, city, and city and county subject only to the restrictions and limitations provided in such charter.

Any charter framed under the provisions of this section, which charter provides for the formation of the whole territory of the county into a consolidated city and county, may provide for the termination of the tenure of office of all county officers elected after the adoption of such charter by the electors of such county and prior to the approval of such charter by the Legislature.

8. No property in any city or town or territory hereinafter consolidated into a city and county shall be taxed for the payment of any indebtedness outstanding at the time the charter takes effect and for the payment of which indebtedness the property in such city or town or territory was not, prior to the taking effect of such charter, subject to such taxation, unless there shall have been submitted to the qualified electors of such city or town or territory, at the separate election submitting the proposal in the first instance to join, the proposition regarding the assumption of such indebtedness as hereinbefore set forth and the same shall have been approved by a majority of such electors voting thereon.

In all cases of consolidation of two or more incorporated cities and towns. or of one or more incorporated cities or towns with unincorporated territory, into a city and county, assumption of existing bonded indebtedness by such city or town or by such unincorporated territory or by either of the cities and towns so consolidating may be made by a majority of the qualified electors voting thereon in the territory or city or town which shall assume an existing bonded indebtedness, and the provisions of section eighteen of this article shall not be a prohibition thereof.

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[Alameda County]

Every city and county which shall be formed, under the provisions of this section, of territory which shall have been taken from the original county, shall be liable for a just proportion of the debts and liabilities and be entitled to a just proportion of the property and assets of such county existing at the time of such separation.

If the population in the territory formed into a city and county, by separation from the original county, is equal to or greater in number than two-thirds of the population of the whole of the original county at the time of the formation of such city and county, the city and county so formed and separating itself from the original county, shall be entitled to the original records and books of the original county, upon supplying to the original county certified copies of all records, documents and books properly bound and indexed, which affects or may affect the property of the remaining portion of the original county, or which it may in the future have occasion to refer to; and such certified copies so furnished and certified by the county clerk if the copies are issued from his office, and by the recorder if issued from his office, or by any other officer of the county if they be copies of records in his office, shall be competent evidence in any court proceeding or action which may thereafter be commenced.

The Legislature of the State may enact such general laws as may be necessary to carry out the provisions of subdivision eight of this section.

If by the formation of a city and county, under the provisions of this section, any territory whether incorporated or unincorporated is separated from the original county, and by such separation, any of the elective officers of the original county, have by reason of such separation ceased to be residents or electors of the original county, such elective officers shall continue to serve, and be charged with all of the powers and duties of the office to which they were elected, until the expiration of the term for which they were elected, and their salaries shall be paid, by both the new city and county and the remaining portion of the original county, in proportion and in the ratio as the population of each bears to the whole population of the original county.

If under the provisions of this section, any city and county is formed which does not include the whole of the original county, and by reason of the separation of the territory comprising the new city and county, any incorporated city or town or any unincorporated territory is separated from the largest area of the remainder of the county, by reason of its exterior boundary not being contiguous thereto, the Legislature shall provide for the transfer of such portion or portions to an adjoining county or counties whose exterior boundary or boundaries may be contiguous thereto, or it may transfer such portion or portions to the new consolidated city and county; *provided, however*, if there be formed and established under the provisions of this section, a consolidated city and county government of a lesser area than that of the whole county, and there be any incorporated city having a population of forty thousand inhabitants or over, within the county, as ascertained by the last preceding census taken under the authority of the Congress of the United States, which is not included therein, or if by the formation and establishment of any lesser area than that of the

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whole county into a consolidated city and county, any such incorporated city having such population is separated and detached from the largest area of the remainder of the original county, by reason of its exterior boundaries not being contiguous thereto, then such incorporated city, together with all other incorporated cities or towns or unincorporated territory in such original county, which if said new city and county is formed and established would likewise be so separated and detached, and which are contiguous to each other and form one compact area, may organize and establish a consolidated city and county government for the whole of such detached territory under the provisions of section eight of this article. by adopting a freeholders charter in accordance with the provisions of said section, and to have all of the powers conferred by said section; except, that for the purpose of the election of the members of the board of freeholders, and the organization and establishment of such consolidated city and county government, the whole of such detached area proposed to be formed into such consolidated city and county, shall be treated and considered as a city, within the meaning of section eight of this article; and except that all elections thereunder and all proceedings for the adoption of such charter shall be initiated and conducted by the governing body of the incorporated city having the largest population in such detached area. Such charter may be submitted to the electors within the area of the detached territory, for their approval. at any time subsequent to the adoption of the charter prepared by the freeholders elected by the electors of the whole of the original county, but the same shall not be ratified by the Legislature of this State until after the ratification by the Legislature of the charter adopted in the first instance, which provided for the formation of a lesser territory than that of the whole county into a consolidated city and county government.

If under the provisions of this section any city and county is formed, which does not include the whole of the area of the original county from which it is permitted to separate, and any remainder of the county is not transferred to another county as in this section provided, but is to continue as a county, the Governor of the State shall designate and assign, from among the judges of the superior court of the original county in office at the time of the taking effect of the new city and county government, as many judges as the ratio of the population contained in the area formed by the new city and county bears to the population of the whole of the original county at the time of the approval of the charter by the Legislature, and the judges so assigned shall be and become the judges of the superior court of the new city and county, to hold office during the term for which each of them shall have been elected.

Upon the approval by the Legislature of any charter framed under the provisions of this section, which charter provides for the separation of any new city and county from the original county, the board of supervisors of the original county, shall, at the time and in the manner set forth in such charter so approved, pass an ordinance calling an election in the area which is consolidated into a city and county, for the purpose of nominating and electing the first officers thereunder. Said board of supervisors shall canvass the votes and declare the result



Art. XI, § 7½b

[Alameda County]

of such election. The county clerk or other officer having charge of registration of electors shall furnish to the district or city and county so consolidated, the voting list and precinct registers of all the electors residing in the area of the territory wherein the election is to be held.

The provisions of this Constitution applicable to cities, and cities and counties, and also applicable to counties, so far as not inconsistent or prohibited to cities or cities and counties, except in the method of procedure of calling elections for the election of freeholders and the submission of the question of the formation of a consolidated city and county, shall be applicable to such consolidated city and county.

Any charter framed under the provisions of this section may be amended as provided in section eight of article eleven of this Constitution.

Nothing in this section shall be construed to repeal or alter in any way the provisions of section eight and one-half of article eleven of this Constitution, providing a different method and procedure for the formation of cities and counties, wherein the initiative is taken by a city or city and county. Nor shall the provisions of this section apply to any consolidated city and county, organized as such at the time this section takes effect; nor shall the provisions of this section apply to any county, which at the time this section takes effect, had adopted a freeholders charter, and was organized and operating under such freeholders charter. The Legislature shall enact such general or special laws as may be necessary to carry out the provisions of this section and such general or special laws, as may be necessary to effect city and county consolidation hereunder, or as may be necessary to provide for any period after such consolidation, by reason of the separation from the original county of such consolidated city and county, or to provide for the government of the remainder of the original county from which separation was had. [*New section adopted November 5, 1918.*]

[Annexations of Cities]

SEC. 7½b. No incorporated city or town shall ever be transferred or annexed to, or consolidated with, any other municipality, or consolidated city and county, without the consent of a majority of the voters of such incorporated city or town voting at an election called for that purpose. [*New section adopted November 7, 1922.*]

[City Charters]

SEC. 8. (a) Any city or city and county containing a population of more than three thousand five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of California, may frame a charter for its own government, consistent with and subject to this Constitution; and any city or city and county having adopted a charter may adopt a new one. Any such charter may be framed by a board of fifteen freeholders chosen by the electors of such city or city and county, at any general or special election, but no person shall be eligible as a candidate for such board unless he shall have been, for the five years next preceding, an elector of said city or city and county. An election for choosing freeholders may be called by a two-thirds vote of the legislative body of such city or city and county, and on presentation of a petition signed by not less than fifteen per cent of the registered electors of such city or city and county, the legislative body shall

## Art. XI, § 8

call such election at any time not less than thirty nor more than sixty days from date of the filing of the petition. Any such petition shall be verified by the authority having charge of the registration records of such city or city and county and the expenses of such verification shall be provided by the legislative body thereof. [Nominations]

(b) Candidates for the office of freeholders shall be nominated either in such manner as may be provided for the nomination of officers of the municipal or city and county government or by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections. [Vote on Drafting]

(c) At such election the electors shall vote first on the question "Shall a board of freeholders be elected to frame a proposed new charter?" and secondly for the candidates of the office of freeholder. If the first question receives a majority of votes of the qualified voters voting thereon at such election, the fifteen candidates for the office of freeholder receiving the highest number of votes shall forthwith organize as a board of freeholders, but if the first question receives less than a majority of the votes of the qualified voters voting thereon at such election no board of freeholders shall be deemed to have been elected. [Proposed Charter]

(d) The board of freeholders shall, within one year after the result of the election is declared, prepare and propose a charter for the government of such city or city and county. The charter so prepared shall be signed by a majority of the board of freeholders and filed in the office of the clerk of the legislative body of said city or city and county. The legislative body of said city or city and county shall, within fifteen days after such filing, cause such charter to be published once in the official newspaper of said city or city and county and each edition thereof, during the day of publication (or in case there be no such official newspaper, in a newspaper of general circulation within such city or city and county and all the editions thereof issued during the day of publication) and in any city or city and county with over 50,000 population shall cause copies of such charter to be printed in convenient pamphlet form and in type of not less than ten-point and shall cause copies thereof to be mailed to each of the qualified electors of such city or city and county, and shall, until the day fixed for the election upon such charter, advertise in one or more newspapers of general circulation in said city or city and county a notice that copies thereof may be had upon application therefor. [Charter Election]

(e) Such charter shall be submitted to the electors of such city or city and county at a date to be fixed by the board of freeholders, before such filing and designated on such charter, either at a special election held not less than sixty days from the completion of the publication of such charter as above provided, or at the general election next following the expiration of said sixty days. [Council Proposal]

(f) As an alternative, the legislative body of any such city or city and county, on its own motion may frame or cause to be framed, a proposed charter and submit the proposal for the adoption thereof to the electors at either a special election called for that purpose or at any general or special election. Any charter so submitted shall be adver-

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[City Charters]

tised in the same manner as herein provided for the advertisement of a charter proposed by a board of freeholders, and the election thereon held at a date to be fixed by the legislative body of such city or city and county, not less than forty nor more than sixty days after the completion of the advertising in the official paper.

[Adoption]

(g) If a majority of the qualified voters voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the Legislature, if then in session, or at the next regular or special session of the Legislature. The Legislature shall by concurrent resolution approve or reject such charter as a whole, without power of alteration or amendment; and if approved by a majority of the members elected to each House it shall become the organic law of such city or city and county and supersede any existing charter and all laws inconsistent therewith. One copy of the charter so ratified and approved shall be filed with the Secretary of State, one with the recorder in the county in which such city is located, and one in the archives of the city, and in the case of a city and county one copy shall be filed with the recorder thereof, and one in the archives of such city and county; and thereafter the courts shall take judicial notice of the provisions of such charter.

[Amendments]

(h) The charter of any city or city and county may be amended by proposals therefor submitted by the legislative body thereof on its own motion or on petition signed by fifteen per cent of the registered electors, or both. Such proposals shall be submitted to the electors at either a special election called for that purpose or at any general or special election. Petitions for the submission of any amendment shall be filed with the legislative body of the city or city and county not less than sixty days prior to the general election next preceding a regular session of the Legislature. The signatures on such petitions shall be verified by the authority having charge of the registration records of such city or city and county, and the expenses of such verification shall be provided by the legislative body thereof. If such petitions have a sufficient number of signatures the legislative body of the city or city and county shall so submit the amendment or amendments so proposed to the electors. Amendments proposed by the legislative body and amendments proposed by petition of the electors may be submitted at the same election. The amendments so submitted shall be advertised in the same manner as herein provided for the advertise-  
[sic] ment of a proposed charter, and the election thereon, held at a date to be fixed by the legislative body of such city or city and county, not less than forty, and not more than sixty, days after the completion of the advertising in the official paper.

[Legislative Approval]

(i) If a majority of the qualified voters voting on any such amendment vote in favor thereof, it shall be deemed ratified, and shall be submitted to the Legislature if then in session, or at the regular or special session next following such election; and approved or rejected without power of alteration in the same manner as herein provided for the approval or rejection of a charter.

[Conflicts, Home Rule]

(j) In submitting any such charter or amendment separate propositions, whether alternative or conflicting, or one included within the

## Art. XI, § 8a

other, may be submitted at the same time to be voted on by the electors separately, and, as between those so related, if more than one receive a majority of the votes, the proposition receiving the largest number of votes shall control as to all matters in conflict. It shall be competent in any charter framed under the authority of this section to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. It shall be competent in any charter to provide for the division of the city or city and county governed thereby, into boroughs or districts, and to provide that each such borough or district may exercise such general or special municipal powers, and to be administered in such manner, as may be provided for each such borough or district in the charter of the city or city and county. [Petitioners]

(k) The percentages of the registered electors herein required for the election of freeholders or the submission of amendments to charters shall be calculated upon the total vote cast in the city or city and county at the last preceding general State election; and the qualified electors shall be those whose names appear upon the registration records of the same or preceding year. The election laws of such city, or city and county shall, so far as applicable, govern all elections held under the authority of this section. [*As amended November 3, 1936.*]

[S. F. Charter P. P. I. E. Amendment]

SEC. 8a. The charter of the City and County of San Francisco may be amended, in addition to the method and the times provided in section 8 of Article XI of the Constitution, in the following particulars:

(a) Authorizing the City and County of San Francisco, a municipal corporation, by its legislative authority, to incur a bonded indebtedness in an amount not exceeding five million dollars, and to issue municipal bonds therefor, and to grant and turn over to the Panama-Pacific International Exposition Company (a corporation organized under the laws of the State of California March 22, 1910) the proceeds of said bonds, the same to be used and disbursed by said exposition company for the purposes of an exposition to be held in the City and County of San Francisco to celebrate the completion of the Panama Canal; said bonds, so issued, to be of such form and to be redeemable, registered and converted in such manner and amounts, and at such times not later than forty years from the date of their issue, as such legislative authority shall determine; the interest on said bonds to not exceed five per centum per annum, and said bonds to be exempt from all taxes for State and municipal purposes, and to be sold for not less than par at such times and places, and in such manner, as shall be determined by said legislative authority; the proceeds of said bonds, when sold, to be payable immediately by the treasurer of said city and county to the treasurer of said Panama-Pacific International Exposition Company, upon the demand of said treasurer of said exposition company, without the necessity of the approval of such demand by other authority, the same to be used and disbursed by said Panama-Pacific International Exposition Company for the purposes

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[S. F. Charter P. P. I. E. Amendment]

of such exposition, under the direction and control of such exposition company;

(b) Providing that any bonded indebtedness incurred for the purposes aforesaid shall be exclusive of the bonded indebtedness of the said city and county limited by section 9 of Article XII of said charter;

(c) Granting to said Panama-Pacific International Exposition Company the exclusive possession and use, together with the management and control, of that portion of Golden Gate Park in the City and County of San Francisco westerly from Twentieth Avenue, as extended, for such exposition purposes, such possession and use, also management and control, to terminate not later than one year after the closing of such exposition;

(d) Granting to said Panama-Pacific International Exposition Company the exclusive possession and use, together with the management and control, for such exposition purposes, of any lands held by the board of education of the City and County of San Francisco, and by the City and County of San Francisco, not in actual use, such possession and use, also management and control, to terminate not later than one year after the closing of such exposition.

(e) Authorizing said Panama-Pacific International Exposition Company to temporarily close streets in the City and County of San Francisco westerly from Twentieth Avenue, for such exposition purposes, and to have the exclusive possession and use, together with the management and control, of said streets for such exposition purposes, such possession and use, also management and control of said streets, to terminate not later than one year after the closing of such exposition.

Proposals to amend the charter of the City and County of San Francisco in the foregoing particulars may be submitted by the legislative authority of said city and county to the electors of said city and county, at any general or special election (and a special election may be called therefor) held in said city and county, after the publication of such proposals in a newspaper of general circulation in said city and county, for such time as shall be determined by said legislative authority. Upon the ratification of any such proposed amendment by a majority of the electors of said city and county voting at such election on such proposed amendment, said proposed amendment receiving such majority vote shall become operative immediately as an amendment to said charter, without the necessity of approval thereof by the Legislature.

Any act of the legislative authority of the City and County of San Francisco, in submitting to the electors of said city and county, at any general or special election, proposals to amend the charter of said city and county in the foregoing particulars, including any notice by publication or otherwise of such proposals, and of such election, and the holding of such election, in accordance with the provisions hereof, before the adoption of this amendment, are hereby validated in all respects as if performed subsequent to the adoption of this amendment. The disbursement of all funds obtained from said bonds shall be accounted for by said Panama-Pacific International Exposition Company by an

Art. XI, § 8<sup>1</sup>

itemized statement thereof to be filed with the auditor of the City and County of San Francisco. [*New section adopted November 8, 1910.*]

SEC. 8<sup>1</sup>. It shall be competent, in all charters framed under the authority given by section eight of this article, to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State as follows: [City Charter Provisions]

1.\* For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; and for the establishment, constitution, regulation, government and jurisdiction of municipal courts and judges thereof, with such civil, criminal and magisterial jurisdiction as by law may be conferred upon inferior courts and judges thereof; and for the manner in which, the times at which and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; *provided*, such municipal courts shall never be deprived of the jurisdiction given inferior courts created by general law.

In any city or any city and county, when such municipal court has been established, there shall be no other court inferior to the superior court; and pending actions, trials, and all pending business of inferior courts within the territory of such city or city and county, upon the establishment of any such municipal court, shall be and become pending in such municipal court, and all records of such inferior courts shall thereupon be and become the records of such municipal court. [Boards of Education]

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards. [Police]

3. For the manner in which, the times at which and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force. [City Elections]

4. For the manner in which and the times at which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches, and for all expenses incident to the holding of any election. [Personnel]

It shall be competent in any charter framed in accordance with the provisions of this section, or section eight of this article, for any city or consolidated city and county, and plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several county and municipal officers and employes whose compensation is paid by

\* See Article VI, sections 11, 11a, and 13.

Art. XI, § 8]

[City Charter Provisions]

such city or city and county, excepting judges of the superior court, shall be elected or appointed, and for their recall and removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. All provisions of any charter of any such city or consolidated city and county, heretofore adopted, and amendments thereto, which are in accordance herewith, are hereby confirmed and declared valid. ["Cities and Counties": Formation]

5.\* <sup>a</sup> It shall be competent in any charter or amendment thereof, which shall hereafter be framed under the authority given by section eight of this article, by any city having a population in excess of fifty thousand ascertained as prescribed by said section eight, to provide for the separation of said city from the county of which it has theretofore been a part and the formation of said city into a consolidated city and county to be governed by such charter, and to have combined powers of a city and county, as provided in this Constitution for consolidated city and county government, and further to prescribe in said charter the date for the beginning of the official existence of said consolidated city and county.

<sup>b</sup> It shall also be competent for any such city, not having already consolidated as a city and county to hereafter frame, in the manner prescribed in section eight of this article, a charter providing for a city and county government, in which charter there shall be prescribed territorial boundaries which may include contiguous territory not included in such city, which territory, however, must be included in the county within which such city is located. [Separation]

<sup>c</sup> If no additional territory is proposed to be added, then, upon the consent to the separation of any such city from the county in which it is located, being given by a majority of the qualified electors voting thereon in such county and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and the approval thereof by the Legislature, as prescribed in section eight of this article, said charter shall be deemed adopted and upon the date fixed therein said city shall be and become a consolidated city and county. [Additional Territory]

<sup>d</sup> If additional territory which consists wholly of only one incorporated city or town, or which consists wholly of unincorporated territory, is proposed to be added, then, upon the consent to such separation of such territory and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city so proposing the separation, and also upon the approval of the proposal hereinafter set forth, by a majority of the qualified electors voting thereon in the whole of such additional territory, and the approval of said charter by the Legislature, as prescribed in section eight of this article, said charter shall be deemed adopted, the indebtedness hereinafter referred to shall be deemed to have been assumed, and upon the date fixed in said charter

\* The superior paragraph letters are added

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such territory and such city shall be and become one consolidated city and county.

[Consolidation Proposal]

\* The proposal to be submitted to the territory proposed to be added shall be substantially in the following form and submitted as one indivisible question:

“Shall the territory (herein designate in general terms the territory to be added) consolidate with the city of (herein insert name of the city initiating the proposition to form a city and county government) in a consolidated city and county government, and shall the charter as prepared by the city of (herein insert the name of the city initiating such proposition) be adopted as the charter of the consolidated city and county, and shall the said added territory become subject to taxation along with the entire territory of the proposed city and county, in accordance with the assessable valuation of the property of the said territory, for the following indebtedness of said city (herein insert name of the city initiating such proposition) to wit: (herein insert in general terms reference to any debts to be assumed, and if none insert ‘none’)?”

[Consolidation of District]

† If additional territory is proposed to be added, which includes unincorporated territory and one or more incorporated cities or towns, or which includes more than one incorporated city or town, the consent of any such incorporated city or town shall be obtained by a majority vote of the qualified electors thereof voting upon a proposal substantially as follows:

[Proposal]

“Shall (herein insert the name of the city or town to be included in such additional territory) be included in a district to be hereafter defined by the city of (herein insert the name of the city initiating the proposition to form a city and county government) which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question that such district to be then described and set forth shall consolidate with (herein insert name of the city initiating said consolidation proposition) in a consolidated city and county government, and also that a certain charter, to be prepared by the city of (herein insert name of the city initiating such proposition) be adopted as the charter of such consolidated city and county, and that such district become subject to taxation along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city of (herein insert name of the city initiating such proposition) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert ‘none’)?”

[Establishment of District]

‡ Any and all incorporated cities or towns to which the foregoing proposal shall have been submitted and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city initiating such consolidation proposal may desire to have included, the whole to form an area contiguous to said city, shall be created into a district by such city, and the proposal substantially as above prescribed to be used when the territory proposed to be added consists wholly of only one incorporated city or town, or wholly of unincorporated territory, shall, within two



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[“Cities and Counties”]

years, be submitted to the voters of said entire district as one indivisible question.

[Separation of District]

<sup>h</sup> Upon consent to the separation of such district and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of said district so proposed to be added, and upon the approval of said charter by the Legislature, as prescribed in section eight of this article, said charter shall be deemed adopted, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date fixed in said charter, such district and such city shall be and become one consolidated city and county. [Annexations to “Cities and Counties”]

6.\* <sup>a</sup> It shall be competent for any consolidated city and county now existing, or which shall hereafter be organized, to annex territory contiguous to such consolidated city and county, unincorporated or otherwise, whether situated wholly in one county, or parts thereof be situated in different counties, said annexed territory to be an integral part of such city and county, *provided* that such annexation of territory shall only include any part of the territory which was at the time of the original consolidation of the annexing city and county, within the county from which such annexing city and county was formed, together with territory which was concurrently, or has since such consolidation been joined in a county government with the area of the original county not included in such consolidated city and county.

[Single Unit]

<sup>b</sup> If additional territory, which consists wholly of only one incorporated city, city and county or town, or which consists wholly of unincorporated territory, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, then, upon the consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such additional territory is located, and upon the approval of such annexation proposal by a majority of the qualified electors voting thereon in such city and county, and also upon the approval of the proposal hereinafter set forth by a majority of the qualified electors voting thereon in the whole of such territory proposed to be annexed, the indebtedness hereinafter referred to shall be deemed to have been assumed, and at the time stated in such proposal, such additional territory and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto.

<sup>c</sup> The proposal to be submitted to the territory proposed to be annexed, shall be substantially in the following form and submitted as one indivisible question:

“Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of (herein insert the name of the city and county initiating the annexation proposal)

\* The superior paragraph letters are added.

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in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county of (herein insert name of the city and county) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')?" [Districts]

⁴ If additional territory including unincorporated territory and one or more incorporated cities, cities and counties, or towns, or including more than one incorporated city, city and county, or town, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, the consent of each such incorporated city, city and county, or town, shall be obtained by a majority vote of the qualified electors of any such incorporated city, city and county, or town, voting upon a proposal substantially as follows:

"Shall (herein insert name of the city, city and county, or town, to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of (herein insert the name of the city and county initiating the annexation proposal) which district shall within two years from the date of this election vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with (herein insert name of the city and county initiating the annexation proposal) in a consolidated city and county government, and that such district become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of (herein insert name of the city and county initiating the annexation proposal) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')?" [Establishment of District]

⁵ Any and all incorporated cities, cities and counties, or towns, to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city and county initiating such annexation proposal may desire to have included, the whole to form an area contiguous to said city and county, shall be created into a district by said city and county, and the proposal substantially in the form above set forth to be used when the territory proposed to be added consists wholly of only one incorporated city, city and county, or town, or wholly of unincorporated territory, shall, within said two years, be submitted to the voters of said entire district as one indivisible question. [Approval of Annexation]

⁶ Upon consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such territory proposed to be annexed to said city and county is located, and upon the approval of any such annexation proposal by a majority of the qualified electors voting thereon in such city and county proposing such annexation, and also upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of the district so proposed to be

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[“Cities and Counties”]

annexed, then, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date stated in such annexation proposal such district and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto. [Notice of Proposal Under Subdivisions 5, 6]

Whenever any proposal is submitted to the electors of any county, territory, district, city, city and county, or town, as above provided, there shall be published, for at least five successive publications, in a newspaper of general circulation printed and published in any such county, territory, district, city, city and county, or town, the last publication to be not less than twenty days prior to any such election, a particular description of any territory or district to be separated, added, or annexed, together with a particular description of any debts to be assumed, as above referred to, unless such particular description is contained in the said proposal so submitted. In addition to said description, such territory shall also be designated in such notice by some appropriate name or other words of identification, by which such territory may be referred to and indicated upon the ballots to be used at any election at which the question of annexation or consolidation of additional territory is submitted as herein provided. If there be no such newspaper so printed and published in any such county, territory, district, city, city and county, or town, then such publication may be made in any newspaper of general circulation printed and published in the nearest county, city, city and county, or town where there may be such a newspaper so printed and published. [Property, Debts]

If, by the adoption of any charter, or by annexation, any incorporated municipality becomes a portion of a city and county, its property, debts and liabilities of every description shall be and become the property, debts and liabilities of such city and county.

Every city and county which shall be formed, or the territory of which shall be enlarged as herein provided from territory taken from any county or counties, shall be liable for a just proportion of the debts and liabilities and be entitled to a just proportion of the property and assets of such county or counties, existing at the time such territory is so taken. [Provisions Applicable]

The provisions of this Constitution applicable to cities, and cities and counties, and also those applicable to counties, so far as not inconsistent or prohibited to cities, or cities and counties, shall be applicable to such consolidated city and county government; and no provision of subdivision five or six of this section shall be construed as a restriction upon the plenary authority of any city or city and county having a freeholders' charter, as provided for in this Constitution, to determine in said charter any and all matters elsewhere in this Constitution authorized and not inconsistent herewith. [Remaining Territory]

The Legislature shall provide for the formation of one or more counties from the portion or portions of a county or counties remaining after the formation of or annexation to a consolidated city and county, or for the transfer of such portion or portions of such original county or counties to adjoining counties. But such transfer to an adjoining county shall only be made after approval by a majority vote of the quali-

## Art. XI, § 8½

fied electors voting thereon in such territory proposed to be so transferred.

[Limitations Inapplicable]

The provisions of section two of this article, and also those provisions of section three of this article which refer to the passing of any county line within five miles of the exterior boundary of a city or town in which a county seat of any county proposed to be divided is situated, and to the reducing of the population of any county upon the establishment of a new county, and to the minimum population on the forming of a new county, shall not apply to the formation of, nor to the extension of the territory of such consolidated cities and counties, nor to the formation of new counties, nor to the annexation of existing counties, as herein specified.

[Name of "City and County"]

Any city and county formed under this section shall have the right, if it so desires, to be designated by the official name of the city initiating the consolidation as it existed immediately prior to its adoption of a charter providing for a consolidated city and county government, except that such city and county shall be known under the style of a city and county.

[Borough System]

It shall be competent in any charter framed for a consolidated city and county, or by amendment thereof, to provide for the establishment of a borough system of government for the whole or any part of the territory of said city and county, by which one or more districts may be created therein, which districts shall be known as boroughs and which shall exercise such municipal powers as may be granted thereto by such charter, and for the organization, regulation, government and jurisdiction of such boroughs; *provided*, that in the event of such establishment or creation of a borough or boroughs, as hereinabove permitted, the boundaries thereof shall never afterwards be changed or altered, nor shall the governmental rights, powers or jurisdiction of any such borough or boroughs be thereafter limited, extended, modified or taken away, unless and until the borough or boroughs affected by such proposed change or alteration of boundaries, or by the proposed limitation, extension, modification or taking away of governmental rights, powers or jurisdiction, as the case may be, shall each have consented thereto, by the vote of a majority of the voters in each and every such borough, voting at an election or elections called and held for such purpose in each of the boroughs so affected.

[City and "City and County" Debts]

No property in any territory hereafter consolidated with or annexed to any city or city and county shall be taxed for the payment of any indebtedness of such city or city and county outstanding at the date of such consolidation or annexation and for the payment of which the property in such territory was not, prior to such consolidation or annexation, subject to such taxation, unless there shall have been submitted to the qualified electors of such territory the proposition regarding the assumption of indebtedness as hereinbefore set forth and the same shall have been approved by a majority of such electors voting thereon.

[City Debts]

7. In all cases of annexation of unincorporated territory to an incorporated city, or the consolidation of two or more incorporated cities, assumption of existing bonded indebtedness by such unincorporated territory or by either of the cities so consolidating may be

Art. XI, § 9

[City Debts]

made by a majority vote of the qualified electors voting thereon in the territory or city which shall assume an existing bonded indebtedness. This provision shall apply whether annexation or consolidation is effected under this section or any other section of this Constitution, and the provisions of section eighteen of this article shall not be a prohibition thereof.

[Legislation]

The Legislature shall enact such general laws as may be necessary to carry out the provisions of this section and such general or special laws as may be necessary to carry out the provisions of subdivisions five and six of this section, including any such general or special act as may be necessary to permit a consolidated city and county to submit a new charter or charter amendment to take effect at the time that any consolidation, by reason of annexation to such consolidated city and county, takes effect, and, also, any such general law or special act as may be necessary to provide for any period after such consolidation, by reason of such annexation, takes effect, and prior to the adoption and approval of any such new charter or charter amendment. [As amended November 5, 1918.]

SEC. 9. [Repealed June 27, 1933.]

SEC. 10. [Repealed November 8, 1910.]

[Local Regulations]

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws

[Local Taxes]

SEC. 12. Except as otherwise provided in this Constitution, the Legislature shall have no power to impose taxes upon counties, cities, towns or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes

[Value]

All property subject to taxation shall be assessed for taxation at its full cash value. [As amended June 27, 1933.]

[Local Affairs]

SEC. 13. The Legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the Legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this State. [As amended November 3, 1914.]

[Bond Payments]

SEC. 13½. Any county, city and county, city, town, municipality, irrigation district, or other public corporation, issuing bonds under the laws of the State, is hereby authorized and empowered to make said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds.\* [As amended November 3, 1914.]

[Measures, Standards]

SEC. 14. The Legislature may by general and uniform laws provide for the inspection, measurement and graduation of merchandise,

\* See section 16½ of this Article.

## Art. XI, § 15

manufactured articles and commodities, and may provide for the appointment of such officers as may be necessary for such inspection, measurement and graduation. [*As amended October 10, 1911.*]

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

## [Deposit of Public Moneys]

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the Treasurer, or other legal depository, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

SEC. 16½. All moneys belonging to, or in the custody of, the State, or any county, city and county, city, town, municipality or other public or municipal corporation, within this State may be deposited in any national bank or banks within this State, or in any bank or banks organized under the laws of this State, in such manner and under such conditions as may be provided by any law adopted by the people under the initiative or by a two-thirds vote of each House of the Legislature and approved by the Governor and subject to the referendum; *provided*, that the laws now governing the deposit of such moneys shall continue in force until such laws shall be amended, changed or repealed as in this section authorized; *and provided, further*, that the State or any county, city and county, city, town, municipality or other public or municipal corporation, issuing bonds under the laws of this State, may deposit moneys in any bank or banks outside this State for the payment of the principal or interest of such bonds at the place or places at which the same are payable.\* [*As amended November 8, 1932.*]

## [Misuse of Public Moneys]

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

## [Incurring Local Indebtedness]

SEC. 18. No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same; *provided, however*, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds of the qualified electors, voting on any one of such propositions, vote in favor thereof, such proposition shall be

\* See section 13½ of this Article.

Art. XI, § 18

[Local Indebtedness]

deemed adopted; *provided further, however*, that the city and county of San Francisco may at any time pay the unpaid claims, with interest thereon at the rate of five per cent per annum, for materials furnished to and work done for said city and county during the forty-first, forty-second, forty-third, forty-fourth, and fiftieth fiscal years, and for unpaid teachers' salaries for the fiftieth fiscal year, out of the income and revenue of any succeeding year or years, the amount to be paid in full of said claims not to exceed in the aggregate the sum of five hundred thousand dollars, and that no statute of limitations shall apply in any manner to these claims; *and provided, further*, that the city of Vallejo, of Solano county, may pay its existing indebtedness, incurred in the construction of its waterworks, whenever two-thirds of the electors thereof, voting at an election held for that purpose, shall so decide, and that no statute of limitations shall apply in any manner; *provided, further*, that the city of Venice may pay all of its indebtedness incurred during the years nineteen hundred fourteen, nineteen hundred fifteen and nineteen hundred sixteen in excess of the income and revenue for said years, the amount to be paid in full of said indebtedness not to exceed in the aggregate the sum of sixty thousand dollars, whenever two-thirds of the voters thereof voting at an election held for that purpose shall so decide, and that no statute of limitations shall apply in any manner. Any indebtedness or liability incurred contrary to this provision, with the exceptions hereinbefore recited, shall be void. The city and county of San Francisco, the city of San Jose, and the town of Santa Clara may make provision for a sinking fund, to pay the principal of any indebtedness incurred, or to be hereafter incurred by it, to commence at a time after the incurring of such indebtedness of no more than a period of one-fourth of the time of maturity of such indebtedness, which shall not exceed seventy-five years from the time of contracting the same. Any indebtedness incurred contrary to any provision of this section shall be void; *and provided, further*, that the county of Alameda may, upon the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, incur a bonded indebtedness of not to exceed one million dollars, and the legislative authority of said county of Alameda shall issue bonds therefor and grant and turn over to the Panama-Pacific International Exposition Company, a corporation organized under the laws of the State of California, March 22, 1910, the proceeds of said bonds for stock in said company or under such other terms and conditions as said legislative authority may determine, the same to be used and disbursed by said exposition company for the purposes of an exposition to be held in the city and county of San Francisco to celebrate the completion of the Panama canal; said bonds, so issued, to be of such form and to be redeemable, registered and converted in such manner and amounts, and at such times not later than forty years from the date of their issue as the legislative authority of said county of Alameda shall determine; the interest on said bonds not to exceed five per centum per annum, and said bonds to be exempt from all taxes for State, county and municipal purposes, and to be sold for not less than par at such times and places, and in such manner, as shall be determined by said legislative author-

## Art. XI, § 18½

ity; the proceeds of said bonds, when sold, to be payable immediately upon such terms or conditions as said legislative body may determine, to the treasurer of said Panama-Pacific International Exposition Company, upon demands of said treasurer of said exposition company, without the necessity of the approval of such demands by other authority, than said legislative authority of Alameda county, the same to be used and disbursed by said Panama-Pacific International Exposition Company for the purposes of such exposition, under the direction and control of said exposition company; and the legislative authority of said county of Alameda is hereby empowered and directed to levy a special tax on all taxable property in said county each year after the issue of said bonds to raise an amount to pay the interest on said bonds as the same become due, and to create a sinking fund to pay the principal thereof when the same shall become due. [*As amended November 2, 1926.*]

[L. A. County Exception]

SEC. 18½. Anything in this Constitution to the contrary notwithstanding, the county of Los Angeles may, out of succeeding years' revenue or income, reimburse any funds officially held by the treasurer of Los Angeles county which have been heretofore diminished by payment therefrom, during the sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh or sixty-eighth fiscal years, of claims or demands representing indebtedness or liability of said county in excess of the income and revenue provided for the year in which such indebtedness or liability was incurred, whenever a majority of the qualified electors of said county voting at an election held for that purpose shall so decide; and such an election may be called by the board of supervisors of said county and held in accordance with the election laws of this State applicable thereto. [*New section adopted November 5, 1918.*]

[Local Utilities]

SEC. 19. Any municipal corporation may establish and operate public works for supplying its inhabitants with light, water, power, heat, transportation, telephone service or other means of communication. Such works may be acquired by original construction or by the purchase of existing works, including their franchises, or both. Persons or corporations may establish and operate works for supplying the inhabitants with such services upon such conditions and under such regulations as the municipality may prescribe under its organic law, on condition that the municipal government shall have the right to regulate the charges thereof. A municipal corporation may furnish such services to inhabitants outside its boundaries; *provided* that it shall not furnish any service to the inhabitants of any other municipality owning or operating works supplying the same service to such inhabitants, without the consent of such other municipality, expressed by ordinance. [*As amended October 10, 1911.*]

[Local Expenditures]

SEC. 20. The expenditures, other than expenditures to pay interest and redemption charges on bonds heretofore or hereafter issued, of any county, city and county, municipality, district or other political subdivision of this State, whether or not operating under freeholders charters, shall not in any year exceed by more than five per centum the expenditures, other than expenditures to pay interest and redemption charges on bonds heretofore or hereafter issued, of such



Art. XII, § 1

[Local Expenditures]

county, city and county, municipality, district or other political subdivision for the preceding year unless previously authorized by two-thirds vote of the qualified electors of any such county, city and county, district or other political subdivision, or by a majority vote of the electors of any such municipality voting at an election held for that purpose or unless previously authorized by the State Board of Equalization in such manner as may be provided by law; *provided* that no amount expended in excess of such five per centum shall become a part of the base for determining the maximum expenditure for a succeeding year; *provided further, however*, that any county, city and county, municipality, district, or other political subdivision of this State that decreases the amount of its expenditures in any year or years may increase, in any subsequent year or years, the amount of its expenditures by the amount, or any fraction thereof, so reduced, or by an amount not more than five per centum of the amount expended in the year immediately preceding. The limitations imposed in this paragraph shall be effective until June 30, 1935, but the Legislature may impose thereafter the same limitations for such period or periods as it may determine; *provided, however*, that the limitation upon expenditures imposed or authorized by this section shall not apply to expenditures by or on behalf of publicly owned public utilities, including publicly owned facilities operated for the promotion and accommodation of

[sic] commerce and navigation, irrigation districts, county water districts reclamation districts, municipal utility districts or metropolitan water districts organized or existing under the laws of this State or to expenditures arising out of any gift, bequest or donation. [County Tax]

On and after January 1, 1935, the Legislature shall have power, by two-thirds vote of all the members elected to each of the two Houses, to limit the amount of taxes which may be imposed upon real and personal property according to the value thereof for county or city and county purposes.\*

The Legislature shall pass all laws necessary to carry into effect the provisions of this section. [*New section adopted June 27, 1933.*]

ARTICLE XII

CORPORATIONS

[Laws]

SECTION 1. The Legislature shall have power, by general laws and not otherwise, to provide for the formation, organization and regulation of corporations and to prescribe their powers, rights, duties and liabilities and the powers, rights, duties and liabilities of their officers and stockholders or members. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed. [*As amended November 4, 1930.*]

SEC. 2. [*Repealed November 4, 1930.*]

SEC. 3. [*Repealed November 4, 1930.*]

[“Corporations”]

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by indi-

\* See Article XIII, section 15.

Art. XII, § 5

viduals or partnerships; and all corporations shall have the right to sue and shall be subject to be sued, in all Courts, in like cases as natural persons.

[Banks]

SEC. 5. The Legislature shall have no power to pass any act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws, and the Legislature shall provide for the classification of cities and towns by population for the purpose of regulating the business of banking. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States. [As amended November 8, 1910.]

[Unexercised Privileges]

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

[Franchises, Terms]

SEC. 7. The Legislature shall not extend any franchise, nor remit the forfeiture of any franchise, of any quasi public corporation, but may provide by general laws, uniformly applicable to all corporations formed for a limited period, for the extension of the term of existence of any corporation. [As amended November 4, 1930.]

[Rights of State]

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

SEC. 9. [Repealed November 4, 1930.]

[Liabilities Under Franchises]

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

SEC. 11. [Repealed November 4, 1930.]

SEC. 12. [Repealed November 4, 1930.]

[State Interest]

SEC. 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation.

SEC. 14. [Repealed November 4, 1930.]

[Foreign Corporations]

SEC. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

[Venue]

SEC. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the court to change the place of trial as in other cases.

Art. XII, § 17

[Common Carriers]

SEC. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

[Unlawful Interest]

SEC. 18. No president, director, officer, agent, or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

[Passes]

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket, by a member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

[Transportation Rates]

SEC. 20.\* No railroad or other transportation company shall raise any rate of charge for the transportation of freight or passengers or any charge connected therewith or incidental thereto, under any circumstances whatsoever, except upon a showing before the Railroad Commission provided for in this Constitution, that such increase is justified, and the decision of the said commission upon the showing so made shall not be subject to review by any court except upon the question whether such decision of the commission will result in confiscation of property. [As amended October 10, 1911.]

[Discriminations]

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.

[Exceptions]

*Provided, however,* that upon application to the Railroad Commission provided for in this Constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the Railroad Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul. The Railroad Commission shall have power to authorize the issuance of excursion and commutation tickets at special rates.

\* See sections 22 and 23 of this Article

## Art. XII, § 22

Nothing herein contained shall be construed to prevent the Railroad Commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to said shipper being excessive or discriminatory, provided no discrimination will result from such reparation. [*As amended October 10, 1911.*]

[Railroad Commission]

SEC. 22. There is hereby created a Railroad Commission which shall consist of five members and which shall be known as the Railroad Commission of the State of California. The commission shall be appointed by the Governor from the State at large; *provided*, that the Legislature, in its discretion, may divide the State into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; *and provided further* that the three commissioners in office at the time this section takes effect shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the Governor immediately after the adoption of this section, to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921. Whenever a vacancy in the office of commissioner shall occur, the Governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Commissioners appointed for regular terms shall, at the beginning of the term for which they are appointed, and those appointed to fill vacancies, shall, immediately upon their appointment, enter upon the duties of their offices. The Legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain as now fixed by law. The Legislature shall have the power, by a two-thirds vote of all members elected to each House, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this State, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said Railroad Commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of Railroad Commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated, pursuant to such inquiry, investigation or hearing, when approved or confirmed by the commission ordered filed in its office, shall be deemed to be the order of the commission [Rates]

[sic]

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other

## Art. XII, § 23

[Railroad Commission]

transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates, established by said commission than the rates, fares and charges which are specified in such tariff.\* The commission shall have the further power to examine books, records and papers of all railroad and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpoenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record; the commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies. [Additional Powers]

No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon the Railroad Commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the railroad commission in this Constitution, and the authority of the Legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this Constitution.

The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and the "Railroad Commission Act" of this State approved February 10, 1911, shall be construed with reference to this constitutional provision and any other constitutional provision becoming operative concurrently herewith. And the said act shall have the same force and effect as if the same had been passed after the adoption of this provision of the Constitution and of all other provisions adopted concurrently herewith, except that the three commissioners referred to in said act shall be held and construed to be the five commissioners provided for herein. [As amended October 10, 1911.] [Public Utilities]

[34c] **SEC. 23.** Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant or equipment within this State, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission as may be provided by the Legislature, and every class of private corporations, individuals, or associations of individuals hereafter declared by the Legislature to be public utilities shall likewise be subject to such control

\* See sections 20 and 23 of this Article.

## Art. XII, § 23a

and regulation. The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the Legislature, and the right of the Legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this Constitution. From and after the passage by the Legislature of laws conferring powers upon the Railroad Commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this State, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the Railroad Commission; *provided, however*, that this section shall not affect such powers of control over public utilities as relate to the making and enforcement of local, police, sanitary and other regulations, other than the fixing of rates, vested in any city and county or incorporated city or town as, at an election to be held pursuant to law, a majority of the qualified electors of such city and county, or incorporated city or town, voting thereon, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the Railroad Commission as provided by law; *and provided, further*, that where any such city and county or incorporated city or town shall have elected to continue any of its powers to make and enforce such local, police, sanitary and other regulations, other than the fixing of rates, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the Railroad Commission in the manner prescribed by the Legislature; *and provided, further*, that this section shall not affect the right of any city and county or incorporated city or town to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. Nothing in this section shall be construed as a limitation upon any power conferred upon the Railroad Commission by any provision of this Constitution now existing or adopted concurrently herewith. [*As amended November 3, 1914.*] [Eminent Domain]

SEC. 23a. The Railroad Commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the Legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the State or any county, city and county, incorporated city or town, municipal water district, irrigation district or other public corporation or district, and the right of the Legislature to confer such powers upon the Railroad Commission is hereby declared to be plenary and to be unlimited by any provision of this Constitution. All acts of the Legislature heretofore adopted which are in accordance herewith are hereby confirmed and declared valid. [*As amended November 4, 1924.*]

SEC. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

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## ARTICLE XIII

## REVENUE AND TAXATION

[Ad Valorem Taxes]

SECTION 1. All property in the State except as otherwise in this Constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law, or as hereinafter provided \* The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the money represented by such debt, shall not be considered property subject to taxation; † *and further provided*, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county, city and county, or municipal corporation within this State shall be exempt from taxation, except such lands and the improvements thereon located outside of the county, city and county or municipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said county, city and county, or municipal corporation; *provided*, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to taxation. All lands or improvements thereon, belonging to any county, city and county or municipal corporation, not exempt from taxation, shall be assessed by the assessor of the county, city and county or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the State Board of Equalization. The Legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this State. [As amended November 3, 1914.] [College Exemption]

SEC. 1a. Any educational institution of collegiate grade, within the State of California, not conducted for profit, shall hold exempt from taxation its buildings and equipment, its grounds within which its buildings are located, not exceeding one hundred acres in area, its securities and income used exclusively for the purposes of education. [New section adopted November 3, 1914.] [Cemetery Exemption]

SEC. 1b. All property used or held exclusively for the burial or other permanent deposit of the human dead or for the care, maintenance or upkeep of such property or such dead, except as used or held for profit, shall be free from taxation and local assessment. [New section adopted November 2, 1926.] [Veterans' Exemption]

SEC. 14. The property to the amount of one thousand dollars of every resident of this State who has served in the army, navy, marine corps or revenue marine service of the United States in time of war, and received an honorable discharge therefrom, or who after such service of the United States in time of war has continued in such service, or who has been released from active duty because of disability

\* See Article XI, section 12.

† See section 14 of this Article

Art. XIII, § 1½

resulting from such service in time of peace or under other honorable conditions, or lacking such amount of property in his own name, so much of the property of the wife of any such person as shall be necessary to equal said amount; and the property to the amount of one thousand dollars of the widow resident in this State, or if there be no such widow, of the widowed mother resident in this State, of every person who has so served and has died either during his term of service or after receiving an honorable discharge from said service, or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, and the property to the amount of one thousand dollars of pensioned widows, fathers, and mothers, resident in this State, of soldiers, sailors and marines who served in the army, navy or marine corps or revenue marine service of the United States shall be exempt from taxation; *provided*, this exemption shall not apply to any person named herein owning property of the value of five thousand dollars or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars or more. No exemption shall be made under the provisions of this act of the property of a person who is not legal resident of the State; *provided, however*, all real property owned by the Ladies of the Grand Army of the Republic and all property owned by the California Soldiers Widows Home Association shall be exempt from taxation. [As amended November 8, 1932.] [Church Exemption] [etc]

SEC. 1½. All buildings, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, shall be free from taxation; *provided*, that no building so used which may be rented for religious purposes and rent received by the owner therefor, shall be exempt from taxation. [New section adopted November 6, 1900.] [Orphanage Exemption]

SEC. 1½a. All buildings, and so much of the real property connected therewith as may be required for the occupation of institutions sheltering more than twenty orphan or half-orphan children receiving State aid shall be free from taxation; *provided*, that no building or real or personal property so used which may be rented and the rent received by the owner therefor shall be exempt from taxation under the terms of this act. [New section adopted November 2, 1920.] [Public Bonds]

SEC. 1½. All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said State, shall be free and exempt from taxation. [New section adopted November 4, 1902.] [Assessments]

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

SEC. 3. Every tract of land containing more than six hundred and forty acres and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.



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[Vessels]

SEC. 4. All vessels of more than fifty (50) tons burden registered at any port in this State and engaged in the transportation of freight or passengers shall be exempt from taxation except for State purposes until and including the first day of January, 1955. [*As amended November 8, 1932.*]

SEC. 5. [*Repealed November 6, 1906.*] [Tax Power, Payments]

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

SEC. 7. The Legislature shall have the power to provide by law for the payment of all taxes on real property by installments.

[Taxpayer's Statement]

SEC. 8. The Legislature shall by law require each taxpayer in this State to make and deliver to the County Assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian, on the first Monday of March.

[1933 Earthquake]

SEC. 8a. Notwithstanding anything in this Constitution otherwise providing, every taxpayer in the county of Los Angeles and in the county of Orange, who at twelve o'clock meridian on the first Monday of March, 1933, was the owner, or had in his possession, or under his control, any property which was thereafter damaged or destroyed by the earthquake of March 10, 1933, or any other earthquake or earthquakes occurring thereafter, and prior to the first Monday of July, 1933, shall make and deliver to the county assessor a statement, under oath, setting forth specifically all such real and personal property, according to its condition and value after said damage or destruction, rather than according to its condition and value at twelve o'clock meridian on the first Monday of March of said year; and the county assessors of said counties, regardless of whether or not such statement of such damaged or destroyed property is made, shall assess the same according to its condition and value after said damage or destruction, rather than according to its condition and value at twelve o'clock meridian on the first Monday of March of said year. The provisions of this section shall be self-executing. [*New section adopted June 27, 1933.*] [Equalization]

SEC. 9. A State Board of Equalization, consisting of one member from each Congressional District in this State, as the same existed in eighteen hundred and seventy-nine, shall be elected by the qualified electors of their respective districts, at the general election to be held in the year one thousand eight hundred and eighty-six, and at each gubernatorial election thereafter, whose term of office shall be for four years; whose duty it shall be to equalize the valuation of the taxable property in the several counties of the State for the purposes of taxation. The Controller of State shall be ex officio a member of the Board. The Boards of Supervisors of the several counties of the State shall constitute Boards of Equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; *provided*, such State and County Boards of Equalization are hereby authorized and empowered, under such rules of notice as the County Boards may prescribe, as to the county assessments, and under such rules of notice as the State Board may prescribe as to the action of the State Board, to increase or lower the entire

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assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; *provided*, that no Board of Equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value. The present State Board of Equalization shall continue in office until their successors, as herein provided for, shall be elected and shall qualify. The Legislature shall have power to redistrict the State into four districts as nearly equal in population as practical, and to provide for the elections of members of said Board of Equalization. [*As amended November 4, 1884.*]

[Unsecured Taxes]

SEC. 9a. The taxes levied for any current tax year upon personal property and assessments upon possession of, claim to, or right to the possession of land and upon taxable improvements located on land exempt from taxation, which are not a lien upon land sufficient in value to secure their payment, shall be based upon the rates for taxes levied for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure the payment thereof. Nothing in this section shall be construed to prohibit the equalization each year of the assessment on such property in the manner now or hereafter provided by law. [*As amended November 3, 1936.*]

[Place of Assessment]

SEC. 10. All property, except as otherwise in this Constitution provided, shall be assessed in the county, city, city and county, town or township, or district in which it is situated, in the manner prescribed by law. [*As amended November 8, 1910.*]

[Householder's Exemption]

SEC. 10½. The personal property of every householder to the amount of one hundred dollars, the articles to be selected by each householder, shall be exempt from taxation. [*New section adopted November 8, 1904.*]

[Income Taxes]

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

[Poll Tax]

SEC. 12. The Legislature shall provide for the levy and collection of an annual educational poll tax of not less than five dollars on every male inhabitant of this State over twenty-one and under fifty years of age, except persons holding an honorable discharge or discharged under honorable circumstances from the army, navy or marine corps of the United States, persons who pay a real or personal property tax amounting to at least five dollars per annum, paupers, idiots, insane persons and imbeciles. Said tax shall be paid into the State school fund. [*As amended November 4, 1924.*]

SEC. 12½. [*Repealed June 27, 1933 See note at end of Article XIII.*]

[Trees and Vines Exemption]

SEC. 12¾. Fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grape vines under the age of three years from the time of planting in vineyard form, and all immature forest trees which have been planted on lands not previously

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[Trees and Vines Exemption]

bearing merchantable timber, or planted or of natural growth, upon lands from which the merchantable original growth timber stand to the extent of seventy per cent of all trees over sixteen inches in diameter has been removed, shall be exempt from taxation, and nothing in this article shall be construed as subjecting such trees and grapevine and forest trees to taxation; *provided*, that forest trees or timber shall be considered mature for the purpose of this act at such time, after forty years from the time of planting or removal of the original timber as above provided, as a board consisting of a representative from the State board of forestry, a representative from the State board of equalization and the county assessor of the county in which the timber is located, shall by a majority thereof so determine. [As amended November 2, 1926.]

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article. [Assessment of Utilities]

SEC. 14. All pipe lines, flumes, canals, ditches and aqueducts not entirely within the limits of any one county, and all property, other than franchises, owned or used by (1) railroad companies including street railways, herein defined to include interurban electric railways, whether operating in one or more counties, (2) sleeping car, dining car, drawing-room car, and palace car companies, refrigerator, oil, stock, fruit and other car-loaning and other car companies operating upon the railroads in the State, (3) companies doing express business on any railroad, steamboat, vessel or stage line in this State, (4) telegraph and telephone companies, (5) companies engaged in the transmission or sale of gas or electricity, shall be assessed annually by the State Board of Equalization, at the actual value of such property.

All property so assessed by said board shall be subject to taxation to the same extent and in the same manner as other property. [Taxation]

All companies herein mentioned and their franchises, other than insurance companies and their franchises, shall be taxed in the same manner and at the same rates as mercantile, manufacturing and business corporations and their franchises are taxed pursuant to section 16 of this article; *provided*, that nothing herein shall be construed to release any company mentioned in this section from the payment of any amount agreed to be paid or required by law to be paid for any special privilege or franchise granted by any political subdivision or municipality of this State; *provided further*, that no excise, or income tax or any other form of tax or license charge shall be levied or assessed upon or collected from the companies, or any of them, mentioned in the first paragraph of this section, in any manner or form, different from, or at a higher rate than that imposed upon or collected from mercantile, manufacturing and business corporations doing business within this State. [Personal Property Taxes]

The Legislature shall have the power to provide for the assessment, levy and collection of taxes upon all forms of tangible personal property, all notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages, and any legal or equitable interest therein, not exempt from taxation under the provisions of this Constitution, in such manner, and at such rates, as may be provided by law, and in pursuance of the exercise of such power the Legislature, two-

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thirds of all of the members elected to each of the two Houses voting in favor thereof, may classify any and all kinds of personal property for the purposes of assessment and taxation in a manner and at a rate or rates in proportion to value different from any other property in this State subject to taxation and may exempt entirely from taxation any or all forms, types or classes of personal property.

[Rate on Notes, etc.]

The total tax imposed on notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages and any legal or equitable interest therein in pursuance of the provisions of this section shall not be at a rate in excess of four-tenths of one per cent of the actual value of such property and no tax burden shall be imposed upon any personal property either tangible or intangible which shall exceed the tax burden on real property in the same taxing jurisdiction in proportion to the actual value of such property. [Insurance Companies]

Every insurance company or association doing business in this State shall annually pay to the State a tax, assessed by the State Board of Equalization, of two and six-tenths per centum upon the amount of the gross premiums other than gross premiums from ocean marine insurance, received upon its business done in this State, less return premiums and reinsurance in companies or associations authorized to do business in this State; *provided*, that there shall be deducted from said two and six-tenths per centum upon the gross premiums the amount of any taxes paid by such companies on real estate owned by them in this State. This tax shall be in lieu of all other taxes and licenses, State, county, and municipal, upon such companies or their property, except taxes upon their real estate; *provided*, that when by the laws of any other State or country, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies, of the State, doing business in such other State or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, imposed upon insurance companies of such other State or country so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind may be imposed by the Legislature upon insurance companies of such other State or country doing business in this State.

Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax, assessed by the State Board of Equalization, measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of said insurer from such insurance written within the United States, at the rate of five per centum, which tax shall be in lieu of all other taxes and licenses, State, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," shall provide for the assessment, levy, <sup>[etc]</sup> collection, and enforcement of said tax.

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[Rate Change]

The Legislature, two-thirds of all the members elected to each of the two Houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurance companies. ["Companies"]

The word "companies" as used in this section shall include persons, partnerships, joint stock associations, companies and corporations.

Nothing herein contained shall be construed to subject to assessment and taxation property which is exempt from taxation under other provisions of this Constitution. [As amended June 27, 1933.\*]

[Former § 14]

SEC. 14<sup>1</sup>. The provisions of section 14 of this article as they read on May 1, 1933, shall remain fully operative to and including December 31, 1934, notwithstanding any other provision in this Constitution. From and after January 1, 1935, said provisions shall no longer be of any force and effect; *provided, however*, that any taxes assessed in pursuance thereof, prior to said date, shall remain fully collectible. [New section adopted June 27, 1933.\*] [Support of Education]

SEC. 15. Out of the revenue from State taxes for which provision is made in this article, together with all other State revenues, there shall first be set apart the moneys to be applied by the State to the support of the public school system and the State university. The Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amounts sufficient to meet the expenditures of this State not otherwise provided for and in amounts sufficient to apportion, and shall apportion, to each county or city and county of this State, an amount equal to the entire amount required to be raised by each such county or city and county respectively under the provisions of section 6 of Article IX of this Constitution; *provided, however*, that all sums so apportioned shall be considered as though derived from county and city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of said section, nor shall any revenues so apportioned be regarded as appropriations from the funds of the State within the meaning of section 34a of Article IV of this Constitution. [County Revenue Deficiencies]

If the Legislature limits the amount of revenue which may be raised from taxes upon the real and personal property according to the value thereof in pursuance of its power so to do under section 20 of Article XI of this Constitution, then the Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amounts sufficient to apportion and shall apportion to each county and city and county an amount equal to the deficiency in the revenues thereof resulting from such limitation, as such deficiency shall be determined by law; *provided, however*, that no tax shall be levied by the Legislature in pursuance of this section upon property in proportion to the value thereof in excess of the limitation for which provision is made in section 34a of Article IV of this Constitution with reference to taxes for State purposes on real and personal property *and further provided* that no taxes upon property in proportion to the value thereof shall be levied in pursuance of this section for the support of any county or city and county government.

\* See note at end of this Article.

## Art. XIII, § 15½

No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State, or any officer thereof, to prevent or enjoin the collection of any tax levied under the provisions of this article; but after payment thereof action may be maintained to recover, with interest, in such manner as may be provided by law, any tax claimed to have been illegally collected. [*As amended June 27, 1933. See note following Sec. 18, below.*] [Former § 15]

SEC. 15½. The provisions of section 15 of this article as they read on May 1, 1933, shall remain operative for the purpose of the assessment and collection of State taxes as therein contemplated to and including December 31, 1934, but nothing in this section shall be construed as making inoperative the provisions of said section as amended subsequent to said date, in so far as they relate to other matters. From and after January 1, 1935, the provisions of section 15 of this article as they read on May 1, 1933, shall no longer be of any force and effect; *provided, however*, that nothing herein contained shall be construed to affect the collection or distribution of taxes assessed under said section prior to January 1, 1935. [*New section adopted June 27, 1933. See note following Sec. 18, below.*] [Bank Tax]

SEC. 16. 1. (a) Banks, including national banking associations, located within the limits of this State, shall annually pay to the State a tax according to or measured by their net income, which shall be in lieu of all other taxes and licenses, State, county and municipal, upon such banks, or the shares thereof, except taxes upon their real property, at the rate to be provided by law.

(b) The Legislature may provide by law for any other form of taxation now or hereafter permitted by the Congress of the United States respecting national banking associations; *provided*, that such form of taxation shall apply to all banks located within the limits of this State. [Corporation and Franchise Taxes]

2. The Legislature may provide by law for the taxation of corporations, their franchises, or any other franchises, by any method not prohibited by this Constitution or the Constitution or laws of the United States. [Two-thirds Vote]

3. Any tax imposed pursuant to this section must be under an act passed by not less than two-thirds vote of all the members elected to each of the two Houses of the Legislature. [*As amended June 27, 1933. See note following Sec. 18, below.*] [Former § 16]

SEC. 16½. The provisions of paragraph 4 of section 16 of this article, as they read on May 1, 1933, shall remain operative to and including December 31, 1934, notwithstanding any other provision in this Constitution. From and after January 1, 1935, the provisions of said paragraph 4 shall no longer be of any force and effect; *provided, however*, that all taxes assessed thereunder, prior to January 1, 1935, shall remain fully collectible. [*New section adopted June 27, 1933. See note following Sec. 18, below.*]

SEC. 17. [*No section 17 has been adopted.*]

SEC. 18. [*Repealed June 27, 1933. See note immediately following.*] [Saving Clause]

NOTE: *The measure (Proposition 1, Senate Constitutional Amendment 30) adopted by vote of the people June 27, 1933, which amended*

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*sections 14, 15, and 16, and repealed sections 12½ and 18, of Article XIII, and which added sections 14½, 15½, and 16½ thereto, contained the following provision:*

*“Eighth—That all laws now in effect under which taxes are levied or imposed shall be continued in effect until altered or repealed by the Legislature; provided, however, that immediately upon adoption of the foregoing constitutional amendments it shall be the duty of the Legislature to pass all laws necessary to carry into effect the provisions of said amendments and to repeal or amend all laws inconsistent therewith.”*

## ARTICLE XIV

## WATER AND WATER RIGHTS

[Sales, etc.]

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; *provided*, that the rates or compensation to be collected by any person, company, or corporation in this State, for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed, annually, by the Board of Supervisors, or city and county, or City or Town Council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer.\* Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process, to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation, collecting water rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation, to the city and county, or city or town where the same are collected, for the public use.

[Franchise Requirement]

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

[Beneficial Use]

SEC. 3. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the bene-

\* See Article XII, section 23.

## Art. XV, § 1

ficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; *provided, however*, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which his land is riparian under reasonable methods of diversion and use, or of depriving any appropriator of water to which he is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. [*New section adopted November 6, 1928.*]

## ARTICLE XV

## HARBOR FRONTAGES, ETC.

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SEC. 3. All tidelands within two miles of any incorporated city or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

## ARTICLE XVI

## STATE INDEBTEDNESS

[Limitation]

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within seventy-five years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such



## Art. XVI, § 2

[Indebtedness Limitation]

election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein throughout the State for three months next preceding the election at which it is submitted to the people. The Legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same. [*As amended November 3, 1908.*]

[1919 Highway Bonds]

SEC. 2. Immediately upon the adoption of this section the State Treasurer shall prepare forty thousand suitable bonds of the State of California in the denomination of one thousand dollars each, to be numbered from one to forty thousand inclusive, to bear a date not later than thirty days after said adoption and to bear interest at the rate of four and one-half per cent per annum from the date of said bonds, said interest to be payable on the third day of January and the third day of July of each and every year after the sale of said bonds, and said bonds to become due and payable in annual parcels of one thousand bonds, commencing July 3, 1926, and ending July 3, 1965.

The provisions of the act of the Legislature approved May 20, 1915, known as the "State Highways Act of 1915," relative to the signing, countersigning, endorsing and sealing of the bonds therein provided for and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several State boards and officers of their respective duties in connection therewith as therein stated, and all other provisions, terms and conditions in said last-named act relating to the bonds therein mentioned, so far as the same shall be pertinent, shall be applicable to the preparation, issuance and sale of the bonds herein provided for, as herein contemplated.

Funds corresponding to those provided for in said act are hereby created, and payments into and out of the same shall be made as in said act provided, said funds to be designated respectively, "third State highway fund," "third State highway interest and sinking fund," "third State highway revolving fund," and "third State highway sinking fund"; and the State Treasurer shall on the first day of January, 1920, and on the first day of each July and the first day of each January thereafter transfer from the general fund to the "third State highway interest and sinking fund," and on the first day of July, 1926, and on the first day of July of each year thereafter, from the general fund to the "third State highway sinking fund," the required moneys as provided in section five of said act for the purposes therein stated but as applicable only to the bonds herein provided for and the interest thereon.

The moneys in said "third State highway fund" shall be used by the State department of engineering for the acquisition of rights of way for and the acquisition, construction and improvement of uncompleted portions of the system of State highways prescribed by the act of the Legislature approved May 22, 1909, known as the "State Highways Act," and the act of the Legislature approved May 20, 1915, and known as the "State Highways Act of 1915," and certain extensions

## Art. XVI, § 2

thereof described in said last-named act, and also for the acquisition of the rights of way for and the acquisition, construction and improvement of the following additional highways as State highways: Barstow to Needles; Oxnard to San Juan Capistrano; Barstow to Mojave; Santa Maria to Bakersfield; Skyline boulevard San Francisco to Santa Cruz; Rio Vista to Fairfield; Auburn to Verdi; Ukiah to Tahoe City; Crescent City to Oregon line; Santa Rosa to Shellville; Big Pine to Oasis; Placerville to Sportsman's Hall; Feather river route Oroville to Quincy; General Grant National Park to Kings river canyon; Calistoga to Lower Lake; Mecca to Blythe; Rumsey to Lower Lake; Azusa to Pine Flats in San Gabriel canyon; La Canada via Arroyo Seco to Mount Wilson road; Lancaster to Bailey's; Bakersfield via Walker's pass to Freeman; McDonald's to the mouth of the Navarro river; Carmel to San Simeon; Klamath river State highway bridge to coast State highway; Susanville to Nevada state line; Pacheco pass road into Hollister; Visalia to Sequoia Park line; Deep creek easterly via Bear Valley dam to the county road at Metcalf creek in the Angeles national forest; Orland to Chico; Tiburon to Alto; and county line near Michigan Bar via Huot's ranch to Drytown. Said additional highways to be located on the most direct and practical routes; *provided, however*, that twenty million dollars of the moneys in said "third State highway fund," or so much of said twenty million dollars as shall be necessary, shall be used for the completion of all of the system of State highways contemplated and provided for in said "State Highways Act" and in said "State Highways Act of 1915," and the extensions thereof specified in said last-named act.

The cost of acquisition and construction of the several extensions described in said "State Highways Act of 1915" shall hereafter be entirely borne by the State of California, it being the intention hereof to relieve the several counties from any further cooperation as contemplated by said "State Highways Act of 1915," but nothing herein shall prevent any county from contributing towards the cost of said extensions or of any other State highways at its option to such extent as it may desire under the provisions of any existing laws.

All provisions of section eight of said "State Highways Act of 1915," and of any amendment thereof, and any provisions of said act or of any amendment thereof, relating to the selection of routes, character of construction of highways, manner of conducting work thereon, powers and duties of officers in connection therewith, adoption of public highways as State highways, payment of principal and interest on any bonds and appropriation of money for payment thereof, and the keeping of records and making of statements and reports, and all provisions of section eight of the "State Highways Act," as amended May 19, 1915, and of section eight of the "State Highways Act of 1915," and of any amendment of either thereof, relating to the payment by counties of money for interest upon any bonds and the relief of counties from such payment, shall, so far as applicable, apply to the bonds herein authorized and all highways constructed hereunder.

All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action; and all expenses that shall be incurred

## Art. XVI, § 3

by the State Treasurer in the preparation of bonds herein provided for and in the advertising and sale thereof and all expenses incurred by any officer in reference thereto shall be paid from the general fund of the State. Nothing in this Constitution contained shall be a limitation upon the provisions of this section. [*New section adopted July 1, 1919. See Chapter 93, Statutes of 1919, for manner of submission to the people*]

[Highway Finance Board]

SEC. 3. There is hereby created a State highway finance board composed of the Governor, State Controller, State Treasurer, chairman of the State Board of Control and chairman of the California Highway Commission, all of whom shall serve thereon without compensation and a majority of whom shall be empowered to act for said board. All of the forty thousand bonds authorized by section two of article sixteen of this Constitution which shall have heretofore been sold shall be and constitute valid obligations of this State. All of said forty thousand bonds which shall remain unsold at the time of the adoption of this section shall be canceled and destroyed by the State Treasurer, and in lieu thereof bonds in the same amount shall be prepared and sold as hereinafter stated. Said State highway finance board shall from time to time, so long as the bonds herein authorized remain unsold, determine when the same or any part thereof shall be sold, the number to be sold, the dates which the bonds so to be sold shall bear, and the interest rate thereon, which rate shall be fixed by said board according to the then prevailing market conditions but shall at no time exceed six per cent per annum, and the determination of said board as to the rate of interest shall be conclusive as to the then prevailing market conditions. When requested by said board the State Treasurer shall prepare such number of bonds, so dated and bearing such interest rate thereon, all as so determined by said board, said bonds as to maturity dates thereof, form, place and method of payment of principal and interest thereon, and in all other particulars, being the same as authorized by said section two of article sixteen, and as though the bonds herein authorized were the balance of said forty thousand bonds remaining unsold, and when so prepared said bonds shall be signed, countersigned, endorsed, sealed, sold and delivered, all as provided with respect to the bonds authorized by said section two of article sixteen, but by the respective officers in office at the time such acts are required to be done. In the event that any bonds prepared as herein provided cannot in the judgment of said State highway finance board be sold at the time fixed for the sale thereof or thereafter, said board may withdraw said bonds from sale and direct the State Treasurer to cancel and destroy the same, and may at said time or thereafter, at its option, direct the preparation and sale as hereinbefore provided, of the same or a different number of bonds, but not to exceed in all the amount herein authorized, and at the same or a different rate of interest but not to exceed six per cent per annum. All of the provisions of said section two of article sixteen, except those relating to the number of the bonds therein authorized, the date thereof and interest rate thereon, and except as herein otherwise provided, shall apply to and govern the bonds herein authorized, the use of the proceeds therefrom, and the several funds to be created and payments to be made into and out of the same, and in all respects said bonds herein authorized and the moneys derived

## Art. XVI, § 4

from the sale thereof shall be governed and dealt with in the same manner, except as herein otherwise provided, as though the bonds herein authorized were the unsold portion of the forty thousand bonds authorized by said section two of article sixteen.

Section eight of the "State Highways Act" of 1909 as amended and approved by the electors November 7, 1916, section eight of the "State Highways Act" of 1915, section two of article sixteen of the Constitution, and this section, to the extent that the provisions of any of said sections require the payment into the State treasury by the several counties of sums of money equal to the interest upon any money expended from the proceeds of the bonds issued under said acts and constitutional provisions respectively within those counties in the construction of State highways, shall on and after July 1, 1921, have no further force or effect; it being the intent of this provision that on and after said date the interest upon all bonds issued by the State for highway construction shall be paid exclusively by the State and that the counties shall thereafter be relieved from any obligation now or heretofore imposed to pay into the State treasury any money by reason of any expenditures for previous or subsequent highway construction in said counties; but nothing in this section contained shall be construed to exempt or relieve any county from the payment into the State treasury of any money due from it prior to said date under any of said provisions of any of said sections.

All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action; and all expenses that shall be incurred by the State Treasurer in the preparation of bonds herein provided for and in the advertising and sale thereof and all expenses incurred by any officer in reference thereto shall be paid from the general fund of the State. Nothing in this Constitution contained, except as in this section provided, shall be a limitation upon the provisions of this section. [*New section adopted November 2, 1920. Initiative measure.*]

## [Buildings Bonds]

SEC. 4. The issuance and sale of eight thousand five hundred bonds of the State of California in the denomination of one thousand dollars each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the California State Buildings and State University Buildings Bonds Act of 1925, as passed by the Senate and Assembly at the forty-sixth session of the Legislature and approved by the Governor, authorizing the issuance and sale of State bonds in the sum of eight million five hundred thousand dollars for the purpose of providing a fund for the completion and equipment of State buildings at Sacramento, for the erection and equipment of a State building at Los Angeles, for the erection and equipment of a building or buildings for the University of California at Berkeley, and for the erection and equipment of a building or buildings for the University of California at Los Angeles, is hereby authorized and directed, and the said California State Buildings and State University Buildings Bonds Act of 1925 is hereby approved, adopted, legalized, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance

Art. XVI, § 5

thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section. [*New section adopted November 2, 1926.*]

[Olympiad Bonds]

SEC. 5. The issuance and sale of one thousand bonds of the State of California in the denomination of one thousand dollars each, and the use and disposition of the proceeds of the sale of said bonds, all [stc] as provided in the California Olympiad Bonds Act of 1927 as passed by the Senate and Assembly at the forty-seventh session of the Legislature and approved by the Governor, authorizing the issuance and sale of State bonds in the sum of one million dollars for the purpose of providing a fund to be used and disbursed for the purpose of an Olympiad to be held in California in 1932, is hereby authorized and [stc] directed and the said California Olympiad Bond Act of 1927 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section. [*New section adopted November 6, 1928.*]

[SEC. 6. *No section 6 has been adopted*]

[Park Bonds]

SEC. 7. The issuance and sale of six thousand bonds of the State of California in the denomination of one thousand dollars each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the California State Park Bonds Act of 1927 as passed by the [stc] Senate and Assembly at the forty-seventh session of the Legislature and approved by the Governor, authorizing the issuance and sale of State bonds in the sum of six million dollars for the purpose of providing a fund to be used and disbursed for the acquisition of lands and other properties in California for State park purposes, is hereby authorized [stc] and directed and the said California State Park Bond Act of 1927 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section. [*New section adopted November 6, 1928.*]

[S. F. Harbor Bonds]

SEC. 8. The issuance and sale of ten thousand bonds of the State of California in the denomination of one thousand dollars each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the San Francisco Harbor Improvement Act of 1929, as passed by the Senate and Assembly at the forty-eighth session of the Legislature and approved by the Governor, authorizing the issuance and sale of State bonds in the sum of ten million dollars for the purpose of providing a fund for the construction in San Francisco harbor of wharves, piers, seawalls, State railroad, spurs, betterments and appurtenances and for necessary dredging and filling in connection therewith and providing for the payment of the principal and interest of said bonds by the State Treasurer from revenues collected for dockage, tolls, rents, wharfage, crantage, demurrage, switching and any and all col-

Art. XVI, § 9

lections now or hereafter authorized by law paid into the fourth San Francisco seawall sinking fund, is hereby authorized and the said San Francisco Harbor Improvement Act of 1929 is hereby approved, adopted, legalized, validated, and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this section contained shall be a limitation upon the provisions of this section. [*New section adopted November 4, 1930.*] [Relief Bonds, 1933] [sic]

SEC. 9. The issuance and sale of bonds of the State of California and the use and disposition of the proceeds of the sale of said bonds, all as provided in the Unemployment Relief Bond Act of 1933 as passed by the Senate and Assembly at the fiftieth session of the Legislature and approved by the Governor, authorizing the issuance and sale of said bonds in the sum of twenty million dollars for the purpose of providing a fund to be used and disbursed for the purpose of loans to counties and municipalities for unemployment relief, is hereby authorized and directed, and the said Unemployment Relief Bond Act of 1933 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section. [*New section adopted June 27, 1933.*] [Relief Bonds, 1934]

SEC. 10. (a) In addition to moneys otherwise appropriated for the purposes hereinafter stated, the sum of twenty-four million dollars to be made available by the creation of a debt or debts, liability or liabilities of the State of California and the issuance of bonds therefor is hereby appropriated to be expended for relief of hardship and destitution due to and caused by unemployment. The moneys hereby appropriated shall be expended prior to July 1, 1935, as grants by the State of California without repayment by any grantee. [Administrator]

(b) A Relief Administrator shall be appointed by and hold office at the pleasure of the Governor. He shall receive such compensation as shall be fixed by the Governor until otherwise prescribed by law. He shall administer and direct the expenditure of all moneys hereby appropriated. In addition he may administer and direct the expenditure of all such funds as are made available for use within this State by the United States government for relief of hardship and destitution due to and caused by unemployment. [Commission]

General policies for the guidance of relief administration shall be determined by a relief commission, which is hereby created. The commission shall consist of the State Director of Social Welfare, serving thereon *ex officio*, and eight members appointed by and holding office at the pleasure of the Governor. The members of the relief commission shall receive no salary for their services as members of such relief commission but shall receive their necessary traveling expenses. Not more than two members of the commission shall be residents of the same county or city and county and no person holding a salaried public office, other than the State Director of Social Welfare, may be a member of said commission.

## Art. XVI, § 10

[Relief Powers]

The administrator and the commission shall have and exercise such powers and duties respectively as may be prescribed by law. Until otherwise provided by law, the administrator and the commission respectively shall have and exercise the powers and duties in relation to the administration and direction of the expenditure of the moneys hereby appropriated as vested in the Emergency Relief Administrator and the State Emergency Relief Commission by the "Unemployment Relief Bond Act of 1933" in relation to the administration and direction of the expenditure of moneys appropriated by that act.

From and after the date when the administrator and members of the commission first appointed hereunder qualify, the administrator and commission hereby created shall succeed to and have and exercise the powers and duties, respectively, of the Emergency Relief Administrator and State Emergency Relief Commission mentioned in the "Unemployment Relief Bond Act of 1933," in respect to the administration of the provisions of said act of 1933, and said administrator and commission mentioned in said act of 1933 shall have no further legal existence.

[Citizens' Committees]

(c) For the purpose of assisting in the administration and in carrying out the purposes hereof and the policies and plans determined by said commission, the relief administrator may, with the consent and approval of the commission, appoint in each county and city and county a citizens' relief committee of such number, not exceeding eleven, as the commission shall determine. The members of such committee shall serve without pay. The relief committee in each county and city and county shall have and exercise such powers and duties as may be prescribed by law and/or as may be prescribed by said commission.

[Federal Moneys]

(d) If, when and during such time as funds are provided or made available by the United States government or any department, officer or agency thereof for relief of hardship and destitution due to and caused by unemployment in this State, when added to the moneys hereby appropriated or otherwise provided by the State and made available for such purposes are or will, in the opinion of the Governor, be sufficient for relief of hardship and destitution due to and caused by unemployment in this State, the Governor may authorize the expenditure of such moneys for the purpose authorized by the United States government or its department, officer or agency designated for that purpose in cooperation with the State Relief Administrator and the State Relief Commission, such moneys to be expended in accordance with the laws of the State of California.

[Bonds]

(e) For the purposes hereinabove specified bonds of the State in the aggregate principal sum of twenty-four million dollars shall be issued and sold. Unless otherwise provided by law such bonds shall be prepared, advertised, issued and sold in the manner and by the officers authorized so to act by the "Unemployment Relief Bond Act of 1933," in connection with the bonds provided for in that act, except that the bonds issued under authority of this section shall be of such denomination not less than one hundred dollars nor more than one thousand dollars each as the State Treasurer shall determine, shall be in the form of serial bonds maturing in ten equal annual installments, the first

## Art. XVI, § 10

installment maturing not later than five years from date of issuance, shall bear interest at not exceeding the rate of six per cent per annum payable semiannually, both principal and interest being payable in lawful money of the United States, and the administrator and commission hereby created shall perform the duties and exercise the powers in that regard imposed by said act of 1933 upon the administrator and commission therein mentioned. The proceeds of the sale of the bonds, including any sums paid as accrued interest thereon, shall be paid into the "Relief Fund," which fund is hereby created in the State treasury, to be paid out in accordance with law. [State Debt]

(f) The entire revenues of the State shall be applicable to the payment of such bonds. Out of said revenues there shall be set apart the money to be applied by the State to the payment of interest on said bonds and the principal amounts thereof as such bonds mature.

(g) The proceeds of the sale of said bonds may be used to pay the expense that may be incurred in preparing, advertising, issuing and selling the bonds, and in administering and directing the expenditure of the moneys hereby appropriated. [Civil Service]

(h) Any person now employed under the "Unemployment Relief Bond Act of 1933," who has civil service status and who is continued in employment under this section or under any law adopted pursuant hereto shall retain his present civil service status. No other person employed under the provisions hereof or under any law adopted pursuant hereto or performing relief work provided hereunder shall be included in the State civil service or be subject to the civil service laws of this State, but shall be exempt therefrom.

(i) The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. [Aged]

(j) Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, cooperation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law from funds other than funds provided for in subdivisions (a) and (e) of this section. Nothing contained in this subdivision (j) repeals, amends or modifies the Old Age Security Act of the State of California in any manner or in any respect whatsoever, and the power of the Legislature in this regard shall be the same in every respect as if this amendment to the Constitution had not been adopted. [Local Expenditures]

(k) The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under section 20 of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization. [New section adopted November 6, 1934.]



## Art. XVII, § 1

## ARTICLE XVII

## LAND, AND HOMESTEAD EXEMPTION

[Executions]

SECTION 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

[Large Holdings]

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

[Land Grants]

SEC. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

## ARTICLE XVIII

## AMENDING AND REVISING THE CONSTITUTION

[Amendments]

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two-thirds of all the members elected to each of the two Houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon such amendment or amendments shall become a part of this Constitution.\*

[Revision]

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the

\* An amendment to the Constitution of the State of California submitted by the Legislature takes effect on the date of its adoption by the people,—see *Johnston vs. Wolf* (1929) 208 Cal 286. For the effective date of an amendment submitted to the people by initiative petition, see Article IV, section 1.

## Art. XIX, § 1

Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

## ARTICLE XIX

## CHINESE\*

[Aliens]

SECTION 1. The Legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof, from the burdens and evils arising from the presence of aliens, who are, or may become, vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and to provide the means and mode of their removal from the State, upon failure or refusal to comply with such conditions; *provided*, that nothing contained in this section shall be construed to impair or limit the power of the Legislature to pass such police laws or other regulations as it may deem necessary. [Corporations]

SEC. 2. No corporation now existing or hereafter formed under the laws of this State, shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.\* [Public Work]

SEC. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime. [Control of Aliens]

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this Constitution. This section shall be enforced by appropriate legislation.

\* Section 2 of this Article was held to be invalid under the provisions of the Burlingame Treaty, and of the Fourteenth Amendment of the Constitution of the United States, by *In re Tiburcio Parrott* (1880) 1 Fed. 481. Sections 1 and 4 are also probably invalid in large part.

## ARTICLE XX

## MISCELLANEOUS SUBJECTS

[State Capital]

SECTION 1. The city of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding, unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general State election, under such regulations and provisions as the Legislature, by a two-thirds vote of each House, may provide, submitting the question of change to the people.

[Duelling]

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

[Oath of Office]

SEC. 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

“I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of-----, according to the best of my ability.”

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

[Selection of Officers]

SEC. 4. All officers or Commissioners whose election or appointment is not provided for by this Constitution, and all officers or Commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

[Fiscal Year]

SEC. 5. The fiscal year shall commence on the first day of July.

SEC. 6. Suits may be brought against the State in such manner and in such courts as shall be directed by law.

[Marriages]

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

[Separate Property]

SEC. 8. All property, real and personal, owned by either husband or wife before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.

[Bribery]

SEC. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elec-

Art. XX, § 12

tions and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person. [Election of Officers]

SEC. 13. A plurality of the votes given at any election shall constitute a choice where not otherwise directed in this Constitution, *provided* that it shall be competent in all charters of cities, counties or cities and counties framed under the authority of this Constitution to provide the manner in which their respective elective officers may be elected and to prescribe a higher proportion of the vote therefor, *and provided also*, that it shall be competent for the Legislature by general law to provide the manner in which officers of municipalities organized or incorporated under general laws may be elected and to prescribe a higher proportion of the vote therefor. [*As amended October 10, 1911.*] [Board of Health]

SEC. 14. The Legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health. [Mechanics' Liens]

SEC. 15. Mechanics, material men, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens. [Terms of Office]

SEC. 16. When the term of any officer or commissioner is not provided for in this Constitution, the term of such officer or commissioner may be declared by law; and, if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years; *provided, however*, that in the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control; *and provided further*, that the term of office of any person heretofore or hereafter appointed to hold office or employment during good behavior under civil service laws of the State or of any political division thereof shall not be limited by this section. [*As amended October 10, 1911.*] [8-Hour Day]

SEC. 17. The time of service of all laborers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the Legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work and prescribe proper penalties for the speedy and efficient enforcement of said law. [*As amended November 4, 1902.*] [Labor Legislation]

SEC. 17½. The Legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors

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and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon any commission now or hereafter created, such power and authority as the Legislature may deem requisite to carry out the provisions of this section. [*New section adopted November 3, 1914.*]

[Sex as Qualification]

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

SEC. 19. Nothing in this Constitution shall prevent the Legislature from providing, by law, for the payment of the expenses of the Convention framing this Constitution, including the per diem of the Delegates for the full term thereof.

[State Officers]

SEC. 20. Elections of the officers provided for by this Constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

[Workmen's Compensation]

SEC. 21. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workmen's compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workmen for injury or disability, and their dependents for death incurred or sustained by the said workmen in the course of their employment, irrespective of the fault of any party. A complete system of workmen's compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workmen and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workmen in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

[Disputes]

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by

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either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; *provided*, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workmen's compensation, as herein defined.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed. [*As amended November 5, 1918.*]

[Liquor Control]

SEC. 22. [*See following section bearing same number.*] The State of California, subject to the Internal Revenue Laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of intoxicating liquor within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the States shall have the exclusive right and power to regulate the importation into and exportation from the State, of intoxicating liquor. Intoxicating liquors, other than beers, shall not be consumed, bought, sold, or otherwise disposed of for consumption on the premises, in any public saloon, public bar or public barroom within the State; *provided, however*, that subject to the aforesaid restriction, all intoxicating liquors may be kept and may be bought, sold, served, consumed, and otherwise disposed of in any bona fide hotel, restaurant, cafe, cafeteria, railroad dining or club car, passenger ship, or other public eating place, or in any bona fide club after such club has been lawfully operated for not less than one year. The State Board of Equalization shall have the exclusive power to license the manufacture, importation and sale of intoxicating liquors in this State, and to collect license fees or occupation taxes on account thereof and shall have the power, in its discretion, to deny or revoke any specific liquor license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals. It shall be unlawful for any person other than a licensee of said board to manufacture, import or sell intoxicating liquors in this State. Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of intoxicating liquors in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the so-called State Liquor Control Act. California Statutes 1933, Chapter 658, in so far as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger

## Art. XX, § 22

[Liquor Control]

ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of intoxicating liquors other than beers and wines, shall be \$250.00 per year, or \$62.50 per quarter-annum for seasonal businesses, subject to the power of the State Board of Equalization to change such fees.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of liquor contained in the original packages, where such liquor is not to be consumed on the premises where sold.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed. [*As amended November 6, 1934. Initiative measure.*]

[Usury]

SEC. 22. [*See preceding section bearing same number.*] The rate of interest upon the loan or forbearance of any money, goods or things in action, or on accounts after demand or judgment rendered in any court of the State, shall be seven per cent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest not exceeding ten per cent per annum.

[Charges]

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than ten per cent per annum upon any loan or forbearance of any money, goods or things in action.

[Exemptions]

However, none of the above restrictions shall apply to any building and loan association as defined in and which is operated under that certain act known as the "Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 4 of Division VI of the Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business

## Art. XXI, § 1

or any corporation securing money or credit from any Federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonus, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*New section adopted November 6, 1934.*]

## ARTICLE XXI

## BOUNDARY

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight;\* thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a north-westerly direction and following the direction of the Pacific coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

## ARTICLE XXII

## SCHEDULE

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared: ["Saving Clauses"]

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as

\* See 1 Malloy, Treaties 1107.



Art. XXII, § 2

[Schedule]

valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature.

SEC. 2. That all recognizances, obligations, and all other instruments, entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, 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 this Constitution.

[Courts]

SEC. 3. All Courts now existing, save Justices' and Police Courts, are hereby abolished; and all records, books, papers, and proceedings from such Courts, as are abolished by this Constitution, shall be transferred on the first day of January, eighteen hundred and eighty, to the Courts provided for in this Constitution; and the Courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

[Publication of Constitution]

SEC. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednesday in May, A. D., eighteen hundred and seventy-nine, cause to be printed at the State Printing Office, in pamphlet form, simply stitched, as many copies of this Constitution as there are registered voters in this State, and mail one copy thereof to the post-office address of each registered voter; *provided*, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several Postmasters of the State. The Governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the Boards of Supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.

[Ballots]

SEC. 5. The Superintendent of Printing of the State of California shall, at least twenty days before said election, cause to be printed and delivered to the Clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the new Constitution." He shall likewise cause to be so printed and delivered to said Clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the new Constitution." The Secretary of State is hereby authorized and required to furnish

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the Superintendent of State Printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

SEC. 6. The Clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the Inspectors of Elections, at each election precinct or polling place in their respective counties, suitable registers, poll books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the Presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the Clerk of the respective counties shall, in the City and County of San Francisco, be performed by the Registrar of Voters for said city and county. [Voters]

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the Assembly in this State, shall be entitled to vote for the adoption or rejection of this Constitution. [Canvass]

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the Board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new Constitution; and the proceedings of said Boards shall be the same as those prescribed for like Boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said Board shall immediately certify the same, in the usual form, to the Governor of the State of California. [Proclamation]

SEC. 9. The Governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the Controller, Treasurer, and Secretary of State, open and compute all the returns received of votes cast for and against the new Constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified. [First Officers]

SEC. 10. In order that future elections in this State shall conform to the requirements of this Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen after the adoption of this Constitution shall be elected

Art. XXII, § 11

[Schedule]

at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the time and in the manner that State officers are elected.

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this Constitution until changed by legislation.

[Effective Dates]

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

## ARTICLE XXIII \*

### [RECALL OF PUBLIC OFFICERS]

SECTION 1. <sup>1</sup> Every elective public officer of the State of California may be removed 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 is in addition to any other method of removal provided by law.

[Petitions]

<sup>2</sup> The procedure hereunder to effect the removal of an incumbent of an elective public office shall be as follows: A petition signed by electors entitled to vote for a successor of the incumbent sought to be removed, equal in number to at least twelve per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies (*provided* that if the officer sought to be removed is a State officer who is elected in any political subdivision of the State, said petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies) demanding an election of a successor to the officer named in said petition, shall be addressed to the Secretary of State and filed with the clerk, or registrar of voters, of the county or city and county in which the petition was circulated; *provided* that if the officer sought to be removed was elected in the State at large such petition shall be circulated in not less than five counties of the State, and shall be signed in each of such counties by electors equal in number to not less than one per cent of the entire vote cast, in each of said counties, at said election, as above estimated. Such petition shall contain a general statement of the grounds on which the removal is sought, which statement is intended solely for the information of the electors, and the sufficiency of which shall not be open to review. [Election Date]

<sup>3</sup> When such petition is certified as is herein provided to the Secretary of State, he shall forthwith submit the said petition, together with a certificate of its sufficiency, to the Governor, who shall thereupon

\* New article adopted October 10, 1911. The subsection numbers (superior figures) are added.

## Art. XXIII, § 1

order and fix a date for holding the election, not less than sixty days nor more than eighty days from the date of such certificate of the Secretary of State.

[Election]

<sup>4</sup> 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 are other State elections. On the official ballot at such election shall be printed, in not more than two hundred 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. Proceedings for the recall of any officer shall be deemed to be pending from the date of the filing with any county, or city and county clerk, or registrar of voters, of any recall petition against such officer; and if such officer shall resign at any time subsequent to the filing thereof, the recall election shall be held notwithstanding such resignation, 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 said recall election shall qualify.

[Nominations]

<sup>5</sup> Any person may be nominated for the office which is to be filled at any recall election by a petition signed by electors, qualified to vote at such recall election, equal in number to at least one per cent of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Each such nominating petition shall be filed with the Secretary of State not less than twenty-five days before such recall election.

[Ballot]

<sup>6</sup> There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which 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 stamping a cross (X), his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the 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", said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected, for the remainder of

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[Recall]

the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

[Petitions]

<sup>8</sup> Any recall petition may be presented in sections, but each section shall contain a full and accurate copy of the title and text of the petition. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures appended to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit such signatures within the county, or city and county, of which he is an elector. Each section of the petition shall bear the name of the county, or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same stating his qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such petition so verified shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are qualified electors. Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of electors. <sup>9</sup> Each section of the petition shall be filed with the clerk, or registrar of voters, of the county or city and county in which it was circulated; but all such sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the date of filing such petition, the clerk, or registrar of voters, shall finally determine from the records of registration what number of qualified electors have signed the same; and, if necessary, the board of supervisors shall allow such clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of said certificate in his office. <sup>10</sup> Within forty days from the transmission of the said petition and certificate by the clerk or registrar of voters to the Secretary of State, a supplemental petition, identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof as of the original petition, and upon the conclusion of such examination shall forthwith attach to such petition his certificate,

<sup>8</sup> The subsection numbers (superior figures) are added

## Art. XXIII, § 1

properly dated, showing the result of such examination, and shall forthwith transmit such supplemental petition, except as to the signatures thereon, together with his said certificate, to the Secretary of State.

[Qualification of Petition]

<sup>11</sup> When the Secretary of State shall have received from one or more county clerks, or registrars of voters, a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State a certificate showing such fact; and such clerk or registrar of voters shall thereupon file said certificate for record in his office.

<sup>12</sup> A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing the said petition to be signed by the requisite number of electors of the State.

[Minimum Incumbency]

<sup>13</sup> 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.

[Expenses]

<sup>14</sup> If at any recall election the incumbent whose removal is sought is not recalled, he shall be repaid from the State treasury any amount legally expended by him as expenses of such election, and the Legislature shall provide appropriation for such purpose, and no proceedings for another recall election of said incumbent shall be initiated within six months after such election.

[Substitute Officials]

<sup>15</sup> If the Governor is sought to be removed 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 removed, the duties herein imposed upon him shall be performed by the State Controller; and the duties herein imposed upon the clerk or registrar of voters, shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

[Local Recalls]

<sup>16</sup> The recall shall 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.

<sup>17</sup> Until otherwise provided by law, the legislative body of any such county, city and county, city or 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 petition to be signed by electors more in number than twenty-five per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities or counties or cities and counties having charters adopted under the authority given by the Constitution

[General Laws]

<sup>18</sup> 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.

<sup>19</sup> This article is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provi-

## Art. XXIV, § 1

sions of this article or the powers herein reserved. [*New article adopted October 10, 1911.*]

## ARTICLE XXIV \*

[STATE CIVIL SERVICE]

[Merit System]

SECTION 1. Permanent appointments and promotion in the State civil service shall be made exclusively under a general system based upon merit, efficiency and fitness as ascertained by competitive examination. [Personnel Board]

SEC. 2. (a) Between the effective date hereof and January 15, 1935, there shall be a State Personnel Board of three members consisting of the Director of Finance, the Controller and the Legislative Counsel of this State. Subsequent to January 15, 1935, there shall be a State Personnel Board of five members appointed by the Governor with the advice and consent of the Senate except that the Director of Finance shall serve ex officio as one such member until January 15, 1937, or until his successor is appointed and qualified, the Legislative Counsel shall serve ex officio as one such member until January 15, 1939, or until his successor is appointed and qualified, and the Controller shall serve ex officio as one such member until January 15, 1941, or until his successor is appointed and qualified. The first two members appointed by the Governor shall classify themselves by lot so that one shall go out of office at the end of eight years and one at the end of ten years from and after January 15, 1935. Each subsequent appointee shall hold office for ten years from the expiration of the term of his predecessor and until his successor is appointed and qualified, except that an appointment to a vacancy occurring before the expiration of a term shall be but for the remainder of that term. A member other than an ex officio member may be removed by a vote of two-thirds of the members elected to each house of the Legislature. The Legislature, by majority vote of each house, may at any time prior to January 15, 1939, appoint any person of its choice to serve at its pleasure as a member of said board in lieu of the Legislative Counsel, until January 15, 1939.

(b) The board shall annually elect one of its members president.

(c) The board shall appoint and fix the compensation of an executive officer who shall be a member of the State civil service but not a member of the board. [Executive Officer]

Said executive officer shall perform and discharge all of the powers, duties, purposes, functions and jurisdiction hereunder or which hereafter by law may be vested in the board except that the adoption of rules and regulations, the creation and adjustment of classifications and grades, and dismissals, demotions, suspensions and other punitive action for or in the State civil service shall be and remain the duty of the board and a vote of a majority of the members of said board shall be required to make any action with respect thereto effective.

SEC. 3 (a) Said board shall administer and enforce, and is vested with all of the powers, duties, purposes, functions, and jurisdiction which are now or hereafter may be vested in any other State officer or

\* New article adopted November 6, 1934 Initiative measure

Art. XXIV, § 4

agency under, Chapter 590 of the California Statutes of 1913 as amended or any and all other laws relating to the State civil service as said laws may now exist or may hereafter be enacted, amended or repealed by the Legislature. [Stat.]

(b) On the effective date hereof, the unencumbered balance of all funds heretofore lawfully available, or then to be allocated by the Director of Finance, for the maintenance and support of the State officer or agency heretofore administering said above mentioned laws shall become available for the support and maintenance of the board herein created subject to like limitations, other than departmental power of allocation, as heretofore existed with respect thereto. ["State Civil Service"]

SEC. 4. (a) The provisions hereof shall apply to, and the term "State civil service" shall include, every officer and employee of this State except: [Exemptions]

(1) State officers elected by the people.

(2) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office. [Court Personnel]

(3) State officers and employees directly appointed or employed by the Attorney General or the Judicial Council; or by any court of record in this State or any justice, judge or clerk thereof.

(4) State officers and employees directly appointed or employed by the Legislature or either house thereof. [Confidential Positions]

(5) One person holding a confidential position to any officer mentioned in paragraphs (1), (2) or (4) hereof except that there shall be but one such position to any board or commission composed in whole or in part of officers mentioned in said paragraphs, each such person to be selected by the officer, board or commission to be served. [Deputies]

(6) One deputy for the Legislative Counsel and for each State officer elected by the people, each such deputy to be selected by the officer to be served.

(7) Persons employed by the University of California.

(8) Persons employed by any State normal school or teachers college. [Teachers]

(9) The teaching staff of all schools under the direction or jurisdiction of the Superintendent of Public Instruction, the Department of Education or the director thereof or the State Board of Education who otherwise would be members of the State civil service.

(10) Employees of the Federal government, or persons whose selection is subject to rules or requirements of the Federal government, engaged in work done by cooperation between the State and Federal government or engaged in work financed in whole or in part with Federal funds. [Prison Personnel]

(11) Persons appointed or employed by or under the State Board of Prison Directors or any warden of a State prison.

(12) The officers and employees of the Railroad Commission.

(13) Member help in the Veterans' Home of California and inmate help in all State charitable or correctional institutions.

(14) The members of the militia of the State while engaged in military service.



Art. XXIV, § 5

[Extension of Civil Service]

(b) The Legislature may provide that the provisions of this article shall apply to, and the term "State civil service" shall include, any person or group of persons hereinbefore excepted other than those mentioned in paragraphs (1), (2), (7) or (14) of subdivision (a) of this section.

[New Personnel]

(c) Whenever the appointment or employment of new or additional officers or employees of this State is hereafter authorized by law, such officers or employees shall be subject to the provisions hereof and included within the State civil service unless of a class excepted herein.

SEC. 5. (a) The provisions of this article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation.

[Laws Applicable]

(b) All laws relating to the State civil service are continued in force in so far as not in conflict herewith subject to the power of the Legislature to amend or repeal such laws and to enact new laws not in conflict herewith.

[Former Rules]

(c) The rules, regulations, classes and grades of positions heretofore lawfully adopted by the State officer or agency heretofore administering said laws are continued in force and upon the effective date hereof the same shall become the rules, regulations, classes and grades of positions of the board herein created subject to change by said board in the exercise of its powers herein conferred or as may be hereafter provided by law.

[Status of Incumbents]

(d) All persons other than temporary appointees heretofore serving in the State civil service shall continue so to serve without change of class or grade of position heretofore acquired save as such class or grade may be changed by said board in the exercise of its powers herein conferred or as may be hereafter provided by law.

[Incumbent Probationers]

(e) All persons not hereinbefore provided for in subdivision (d) hereof, holding positions subject hereto for more than six months immediately preceding the effective date hereof, shall continue to hold such positions subject to the provisions hereof save that the board in adopting rules relative to classes or grades of the position held by such person shall give each such person such class or grade as it may deem just and such probationary term to commence on the effective date hereof of not less than two months nor more than eight months in the class or grade assigned as it may fix.

[Incumbent Temporary Appointees]

(f) All persons not hereinbefore provided for in subdivisions (d) and (e) hereof holding positions subject hereto less than six months immediately preceding the effective date hereof shall be deemed to hold such position under temporary appointment under the provisions hereof but such temporary appointment shall be deemed to have commenced on the effective date hereof.

[Temporary Appointments]

SEC. 6. (a) No temporary appointment of a person to any position shall be made unless there is no eligible list from which such position can be filled.

(b) No further temporary appointments shall be made to a given position after such position has been filled by a temporary appointment or appointments for a total period of six months.

Art. XXIV, § 7

(c) No person shall hold a given position under temporary appointment for a longer period than six months, nor shall any person serve in the State civil service under temporary appointment for a longer total period than six months in any one calendar year.

[Veterans' Preferences]

SEC. 7. Nothing herein contained shall prevent or modify the giving of preferences in appointments and promotions in the State civil service to veterans and widows of veterans as is now or hereafter may be authorized by the Legislature. [*New article adopted November 6, 1934. Initiative measure.*]