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# THE CONTINUOUS REVISION OF OUR STATE CONSTITUTION

DILLARD S. GARDNER\*

Constitutions preserve from the past our accumulated wisdom in matters governmental, but they also retain much that is transient, reflecting ancient concern for temporary conditions long past. As a consequence, we are periodically compelled to re-examine our organic law to separate the proven from the inadequate, the permanent from the temporary, the fundamental from the occasional. Once more we are subjecting the North Carolina Constitution to close scrutiny and re-appraisal. The last General Assembly provided for the appointment of the "North Carolina Constitutional Commission," composed of fifteen members, to make a "complete and thorough study of the Constitution of North Carolina with the view to determining whether or not there should be an amendment or amendments . . ." to it.<sup>1</sup> The last such commission-study of the constitution was made by a distinguished nine-member commission headed by the late Chief Justice W. P. Stacy; that Commission reported in 1932 the need of selective amendments to the constitution. These proposed amendments were ordered submitted to a vote of the people in 1934, but a technical oversight of the General Assembly nullified the act of submission so that the electorate was not allowed to vote on these proposals *en masse*. However, some of these proposals—or modifications of them—have since been submitted to popular vote, and a number of them have already been incorporated in the constitution. Judge John J. Parker and Lindsay C. Warren, of the present Commission, also served on the 1931 Commission; further, Charles A. Poe, of this Commission, is a son of Dr. Clarence Poe, of the 1931 Commission, and Dean Henry Brandis, Jr. and Judge Susie Sharp, of the current Commission, were closely associated with the

\* Marshall-Librarian of the North Carolina Supreme Court.

<sup>1</sup> The Commission, authorized by Resolution 33 of the General Assembly of 1957, is to report "on or after December 1, 1958." On November 6, 1957, Governor Hodges appointed the following members: Dean Henry Brandis, Jr., Chapel Hill, N.C.; Victor S. Bryant, Sr., Durham, N. C.; W. Ed Gavin, Asheboro, N. C.; Herschel V. Johnson, Charlotte, N. C.; Woodrow Jones, Rutherfordton, N. C.; John Kerr, Jr., Warrenton, N. C.; Judge John J. Parker, Charlotte, N. C.; Charles A. Poe, Raleigh, N. C.; Judge Susie Sharp, Reidsville, N. C.; William D. Snyder, Greensboro, N. C.; W. Frank Taylor, Goldsboro, N. C.; Lindsay C. Warren, Washington, N. C.; and Edward F. Yarborough, Louisburg, N. C. Victor S. Bryant, Sr. was elected Chairman of the Commission.

work of the 1931 Commission.<sup>2</sup> There will thus be a distinct element of continuity between the work of the 1931 Commission and of the 1957 Commission.

Since no account of the development of our constitution to date is generally available and readily accessible throughout the state,<sup>3</sup> this study is intended as a compact "refresher" indicating the lines of growth of our constitution and concluding with a review of the changes and proposed changes since 1868. Without an awareness of the past, we cannot accurately appraise the present nor intelligently chart the future, for we must live in the continuum of time. In matters constitutional we are the heirs of yesterday, the masters of today, and the ancestors of tomorrow.

### OUR FIRST CONSTITUTION

Although the state's political history began at least as early as the issuance of letters patent to Sir Walter Raleigh in 1584, our constitutional history really began with "The Fundamental Constitutions of Carolina,"<sup>4</sup> which the Earl of Shaftesbury requested the political philosopher John Locke to write, and which the Lords Proprietors signed in 1669 but never fully put in force. After the period of the Proprietors, from 1729 until 1776 the area was a Crown Colony.

In April 1776 the provincial Congress at Halifax appointed a committee to prepare a temporary constitution for the state, and on December 18, 1776, the Congress adopted our first constitution. It was put into effect by proclamation without a vote of the people.

The Constitution of 1776 was a simple one focusing power in the General Assembly, reducing the executive power to a minimum, and securing the independence of the judges by appointment for permanent terms. The Governor was to be a landowner, elected for a one year term, but he might serve as many as three years in a six-year period. The same emphasis on land ownership required members of the Senate and the House of Commons to own land. However, the members of the Senate were chosen by landowners only, while those of the House of Commons were elected by all freemen who had paid their taxes.

<sup>2</sup> Dean Brandis wrote the comment on "Revenue, Taxation and Public Debt" in GARDNER, *THE PROPOSED CONSTITUTION FOR NORTH CAROLINA*, art. V (1934). Judge Sharp prepared for the Commission a study of *Supreme Courts Sitting in Divisions*, 10 N.C.L. REV. 351 (1932), which formed the basis for a provision permitting this (now a part of our constitution).

<sup>3</sup> CONNOR AND CHESHIRE, *THE CONSTITUTION OF NORTH CAROLINA*, ANNOTATED, was published in 1911 and has long been out of print. Even the most recent, extensive study of the constitution (GARDNER, *op. cit. supra* note 2) has been out of print for several years.

<sup>4</sup> A COLLECTION OF SEVERAL PIECES OF MR. JOHN LOCKE NEVER BEFORE PRINTED OR NOT EXTANT IN HIS WORKS 1-53 (1720) (printed by J. Bettenham for R. Francklin at the Sun in Fleet Street).

Elections were to be each year. This was the only real check on the enormous power of the General Assembly which elected all state officers and judges, a control which was also substantially extended over the justices of the peace.<sup>5</sup>

#### THE CONVENTION OF 1835

The rapidly-growing west, seeking to give greater emphasis to population in the electorate, forced a constitutional convention in 1835. That Convention provided that each county should have at least one member in the House of Commons, but the one hundred and twenty members were to be allotted according to the federal census of freemen, while the fifty seats in the Senate were to be apportioned to districts formed on the basis of the assessed value of the property for taxation. A nominal and state-wide poll tax was fixed. Office-holders were required to be "Christian" rather than "Protestant" to eliminate the former discrimination. The Governor's term was changed from one year to two years, and provision was made for calling a convention to amend the constitution.<sup>6</sup> In 1856 property qualifications for senatorial electors were eliminated.<sup>7</sup>

#### THE CONSTITUTION OF 1868

After the War Between the States, while the state was under military rule, General Canby called a convention and he declared the delegates elected. Holden's son-in-law, Calvin Cowles, presided; carpetbaggers held the majority of the chairmanships and dominated the convention.

Among significant changes made in the constitution were: the abolition of property qualifications for members of the General Assembly; extension of the governor's term to four years and creation of the Lieutenant-Governorship; the Supreme Court was increased from three to five members and the eight Superior Court judges were increased to twelve, all judges to be elected for eight year terms by popular election rather than by the legislature; state and local government was regulated in some detail rather than leaving the General Assembly with a free hand; restrictions were thrown around the taxing power and the pledging of the state's credit; and there was a real separation of the executive, legislative, and judicial powers in an effort to fence the legislature in a constitutional pasture rather than permit it, as formerly, to graze at will in the open range of governmental powers.<sup>8</sup>

<sup>5</sup> NASH, *THE NORTH CAROLINA CONSTITUTION OF 1776, AND ITS MAKERS* 17-19 (The James Sprunt Studies in History and Political Science, University of North Carolina, vol. 11, No. 2, 1912).

<sup>6</sup> GARDNER, *op. cit. supra* note 2.

<sup>7</sup> CONNOR AND CHESHIRE, *op. cit. supra* note 3, p. xxx.

<sup>8</sup> GARDNER, *op. cit. supra* note 2, at 3-4.

In 1870 the ballot for a convention failed, but in 1873 amendments abolished the office of the Superintendent of Public Works, prohibited double office-holding, fixed biennial instead of annual sessions of the legislature, provided for election of trustees to the University, and made some changes relating to the state debt and taxation.<sup>9</sup>

#### THE CONVENTION OF 1875

As the Convention of 1875 was evenly divided between Democrats and Republicans, a wholesale revision of the Constitution of 1868 was blocked and only conservative and limited revisions were made. The following changes were made: the Supreme Court judges were reduced from five to three and the Superior Court judges from twelve to nine, and the General Assembly was given authority to distribute the judicial power below the Supreme Court; the General Assembly's power over local government structure and the election of justices of the peace was enlarged somewhat; separate schools for white and colored, without discrimination, were required; the inter-marriage of white and colored was prohibited; authority was given to employ convict labor on highways and public works; a detailed method of constitutional amendment was provided; and in the Bill of Rights, the right to bear arms was limited as to concealed weapons and the right to assemble as to secret political societies.<sup>10</sup> In all, changes affecting thirty-five sections were accomplished by the Convention and ratified in the 1876 election. Reforms in the courts and in matters affecting race relations reflected the desire to end a period of social unrest. We have had no constitutional convention since; later amendments have been by submission to popular vote.

#### THE CONSTITUTION TODAY

It is customary to refer to our present constitution as the "Constitution of 1868." Only in a limited sense is this correct. It is true that the general form and framework of the Constitution of 1868 has been retained, but the detailed content has been materially changed. Since 1868 we have amended the constitution one hundred and twenty-five times—and unsuccessfully attempted to amend it in thirty-six other instances, which were defeated by popular vote. Of the fourteen articles, only article XII (Militia) remains unchanged from the form in which it was adopted in 1868. We have retained the framework intact, but we have extensively rebuilt and redecorated the interior. To change the figure of speech, for nearly a century we have followed the practice of pouring "new wine into old bottles."<sup>11</sup>

<sup>9</sup> *Id.* at 4-5.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> Saint Matthew's version might be interpreted to be a warning against "patch-work amending." He wrote, "Neither do men put new wine into old

## GENERAL CHARACTERISTICS OF RECENT CHANGES

We have noted that the last general overhaul of our constitution—in 1875—resulted in a block of changes which reduced the size of the judiciary at the trial and appellate levels, but permitted the General Assembly to establish needed inferior courts and adjust local government generally; established a policy of segregation of the white and colored races; put idle prisoners to work; disapproved “gun-toting” and secret political societies; and generally sought to bring peace and order to a period of unrest. What of the more recent changes—and attempted changes? Are there general trends or patterns discernible in recent years? Passing over the increase in the Supreme Court in 1888 and the suffrage amendments of 1900, what have been the effects of constitutional growth in this state in the last half-century?

## LEGISLATIVE, EXECUTIVE AND JUDICIAL CHANGES

There have been minor changes in legislative provisions, such as changing the meeting date and the compensation of members, but the most important changes have been three restrictions on the General Assembly: limiting local legislation and protecting the Sinking Fund and Retirement Fund from diversion.

The Governor’s powers have been broadened in filling vacancies in executive offices but decreased as to paroles, which are now handled by a board. The Commissioners of Agriculture, Labor, and Insurance, all elective, have been made members of the Council of State, and the Department of Agriculture has been made an independent department. The General Assembly has been authorized to create a Department of Justice under the Attorney General but has not done so.

The Supreme Court membership has been increased from five to seven with power to sit in divisions, a power not yet invoked, and a retirement plan has been authorized under which retired justices may be recalled to sit on the court in emergencies. After several failures to change the number of solicitorial districts, the General Assembly was given this power, along with the power to allocate Superior Court districts with one or more judges to each. Power was granted the Governor to appoint emergency judges but the Governor’s power to assign judges to terms was transferred to the Chief Justice. The principle of the rotation of judges from district to district was expressly retained. Finally, the terms of sheriffs and coroners were increased to four years.

These changes have resulted in a close-knit, effective, and largely

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bottles; else the bottles break, and the wine runneth out, and the bottles perish; but they put new wine into new bottles and both are preserved.” Matthew 9:17.

unified system of trial and appellate courts, but little has been done to improve the inferior courts and the justices of the peace. Except for the failure to transfer the rule-making power to the Supreme Court, the Supreme and Superior Courts have been unified under the Chief Justice; our inferior courts are neither uniform nor unified and, like the Superior Court, still operate under legislative rather than judicial rules of procedure and evidence.

The Constitution of 1868 reduced the power of the General Assembly and there has been some recent tendency to restrict it further; recent constitutional changes have not materially changed the Governor's powers but the tendency of legislative enactments, such as the Budget Act, has been to give the Governor an increasingly firmer control over the administration of the departments of state government; constitutional changes have done much to implement an integrated Supreme-Superior Court system with adequate manpower, but further changes are needed in this area to accomplish a fully coordinated court organization.

#### REVENUE AND TAXATION

Changes in the tax provisions include the reduction of the poll tax to a nominal charge and its abolition as a prerequisite to voting, and a series of amendments granting power to make limited exemptions from taxation of homestead notes and homesteads. A seven and one-half per cent limit was placed on the state debt and the state-county tax rate limited to twenty cents on one hundred dollars, but the rigidity of the former was relaxed to allow new debts to the extent of two-thirds the reduction during the immediately prior two-year period. Further flexibility in the taxing power came, after initial defeats, by the authorization to classify property carrying different tax rates and by the approval of an income tax not to exceed ten per cent of the income. Thus, the trend of these changes has been to restrict the use of the taxing power to the encouragement of home-owning and the production of revenue, with restraints upon the latter relaxed but not eliminated.

#### SUFFRAGE

The state and precinct residence requirements for voting have been relaxed somewhat, but the most important change in this area has been the abolition of the poll-tax payment as a voting requirement.

#### MUNICIPAL CORPORATIONS

The principal change as to municipal corporations has been the elimination of the cumbersome method of chartering local government units by special acts of the legislature, and, recently, the authorization

to permit debts for public purposes when the majority voting in the special election favors them.

#### EDUCATION

With the addition of the required six-months school term, an increasing state responsibility for the schools forced the elimination of the old ex-officio Board of Education; the new Board, along with certain ex-officio members, has ten appointed members, eight of whom are named from the eight educational districts of the state. The State Superintendent of Schools, as the administrative head of the state school system, acts as secretary to the Board. Recent amendments permit local votes to close public schools and the General Assembly has been authorized to make education grants to permit attendance at private schools where the parents object to sending their children to public schools.

#### HOMESTEADS AND EXEMPTIONS

The "emancipation of married women" has been furthered by the elimination of their private examination when executing a deed to the homestead and by permitting them to exercise full powers of attorney when this power has been granted them by the husband. However, some protection of the wife, and children, has been granted by permitting them, as beneficiaries, to receive insurance proceeds free from liability for the husband-father's debts.

#### PUNISHMENTS, PENAL INSTITUTIONS, PUBLIC CHARITIES, MILITIA, AMENDMENTS

No changes in these areas of the constitution have been made during the last half century.

#### MISCELLANEOUS

Only one slight change has been made in these provisions: a notary public is no longer thereby disqualified from holding public office.

#### SUMMARY

During the last half-century, some restrictions have been placed on the General Assembly but practically none on the Governor. Much has been done to strengthen the Supreme Court-Superior Court system but little to improve the inferior courts. The taxing power has been broadened and made more flexible but with definite restrictions. Restrictions on voting have been eased somewhat and some cautious moves have been made toward greater freedom of local government. State responsibility for schools was aided, then once more emphasis was given to local wishes. The independent status at law of married women was



made more definite. These have been the highlights of the constitutional growth since 1900.

#### POPULAR ATTITUDES TOWARD THE CONSTITUTION

Although the Constitution of 1868 was originally forced upon the state at the points of bayonets—and was, accordingly, unpopular—today it is customarily mentioned with respectful reverence. Such is the miracle which time—and the amending process—has wrought upon the popular attitude toward our constitution.

The initial opposition to the Constitution of 1868 culminated in the Convention of 1875, but the evenly-divided factions blocked any drastic rewriting of the constitution. However, the thirty-five changes made by the Convention apparently mollified the discontent to the point that with two minor changes in 1880, an increase in the Supreme Court in 1888, and the suffrage amendments of 1900, no extensive changes were undertaken for four decades. In 1913 a committee named by the House, Senate, and Governor proposed fourteen changes and the General Assembly submitted ten of these, involving changes in twenty sections.<sup>12</sup> That a new generation of voters had "accepted" the constitution was shown by the popular defeat of all ten proposed changes in an election in which the lightness of the vote displayed considerable public apathy.<sup>13</sup> That the public was none too well informed on these proposals is suggested by the fact that during the next four years five of these ten proposals were ratified. In the fifteen years from 1920 to 1935, the people voted on the change of twenty-one sections and rejected thirteen of these. Since the "Proposed Constitution" of 1933 (which was not submitted, as planned, in 1934), changes in fifty-one sections of the constitution have been submitted to the people. The modern willingness of the electorate to modify the constitution is reflected in the startling fact that only five of the fifty-one proposed section changes have been rejected; two of these five rejected were efforts to raise the pay of the General Assembly, which has since been accomplished. The history of our constitution during the last quarter of a century shows a surprising readiness on the part of the people to make changes in our basic law. As recently as 1914 the people of North Carolina refused to strike out the words "insurrection and rebellion against the United States" and to substitute therefor the more palatable "War Between the States," but no such conservatism has marked our more recent consideration of the need of change in our constitution. In the seven-year period covered by 1950 through 1956, seventeen proposed changes in the constitution were submitted to the people, and

<sup>12</sup> Public Laws of North Carolina Ex. Sess. 1913, c. 80.

<sup>13</sup> NORTH CAROLINA MANUAL 217 (1915).

only one (to limit each county to one Senator—1954) was rejected! Gone is the old, almost-religious reverence for the constitution which permitted no hand to be laid upon it. In its stead is a realistic conception of the constitution as the basic blue-print of our state law and government in an age of change.

Our recent experience with the constitution indicates that we need no longer be concerned that either undue respect for the constitution or the fear of change will prevent the adoption of needed changes. Rather, it seems that the counsel of caution compels us to realize that the present frequently-amended constitution as a living and working document has been clarified and vitalized by a vast body of judicial interpretation which will be lost, in part at least, by any change in wording. This would indicate that the task facing the Commission is one of revision rather than redrafting, thus preserving all that has proven satisfactory while pruning away and replacing that which is demonstrably ineffective. The problem is not to replace a bad constitution with a good one, but to make a good constitution better—one more responsive to the needs of modern life. When the important assignment of the Commission has been completed, the people of North Carolina will have the final decision as to its acceptance or rejection. Fortunately, to guide it in its recommendations, the Commission has available the vote of the citizens on one hundred sixty-one proposed changes during the ninety years we have lived under the Constitution of 1868. The attached table is an attempt to reduce this mass of data to a form which will make it available for ready reference; it, of course, is most effectively used in conjunction with a copy of the constitution.<sup>14</sup>

#### CONSTITUTIONAL AMENDMENTS SINCE 1868\*

##### ARTICLE I—Declaration of Rights

Section 1— 1946—To replace word “man” with “person.”

6— 1873—To make state debt limit more flexible.

1880—To avoid Reconstruction bonds unless voted by people.

<sup>14</sup> The North Carolina Constitution, annotated to the cases, can be found in N.C. GEN. STAT. vol. 4A, pp. 3-140 (1955). The 1957 Session Laws of North Carolina and the NORTH CAROLINA MANUAL (1957) carry the constitution as amended to date. Both of these latter publications reflect what the Secretary of State's office considers the authentic text of the constitution, an engrossed and enrolled text which used the constitution as published in *North Carolina Consolidated Statutes of 1919* as the basic document into which the later amendments have been inserted. This appears to be the most nearly “official” text available. There are various pamphlet copies of the constitution which have been widely circulated; while these are often convenient to use, the accuracy of the text is not always dependable.

\* Sources: N.C. MANUALS, issued in 1913 (cumulative) and biennially thereafter through 1957.

(1914—To substitute "War Between the States" for "insurrection and rebellion against the United States." *Defeated.*)

- 7— 1946—To replace word "man" with "person."
- 11— 1946—To replace word "man" with "person."
- 12— 1950—To permit defendant with counsel to waive indictment except in capital cases.
- 13— 1946—To replace word "man" with "person."
- 19— 1946—To replace word "man" with "person."
- 24— 1876—To permit prohibiting carrying concealed weapons.
- 25— 1876—To outlaw secret societies.
- 26— 1946—To replace word "man" with "person."

## ARTICLE II—Legislative Department

- Section 2— 1873—To provide biennial sessions of General Assembly.  
1876—To change meeting date of General Assembly to January.  
1956—To change meeting date of General Assembly to February.
- 4— 1876—To eliminate portions dealing with apportionment of senatorial districts, etc.  
(1954—To limit each county to one senator. *Defeated.*)  
(1914—To fix the inauguration day of the Governor. *Defeated.*)
- 3— 1926—To file election returns with the Secretary of State, provide that election disputes be settled by vote of the General Assembly.
- 6— 1873—To provide for biennial sessions of the General Assembly.  
1954—To transfer the Governor's parole power to Board of Paroles created by the General Assembly.
- 10— 1876—To give the General Assembly power to provide for elections of officers where this is not prescribed by the constitution.
- 11— 1944—To empower the General Assembly to fix the salary of the Lieutenant-Governor.
- 13— 1944—To provide for the election of the Commissioners of Agriculture, Labor, and Insurance, as members of the Council of State.  
1954—To permit the Governor to fill vacancies in state executive offices.
- 14— 1944—To provide for the election of the Commissioners of

Agriculture, Labor, and Insurance, as members of the Council of State.

- 17— 1876—To establish a Department of Agriculture outside of the office of the Secretary of State.
- 18— 1938—*New.* To authorize the General Assembly to create a Department of Justice under the Attorney General.
- 5— 1873—To eliminate the state census.
- 8— 1876—To eliminate portions dealing with apportionment of senatorial districts, etc.
- 13— 1952—To permit Governor to fill General Assembly vacancies.
- 27— 1876—To allow terms of members of General Assembly to begin at election.
- 28— 1876—To fix pay of General Assembly.
- 1928—To fix pay of General Assembly.
- 1950—To fix pay of General Assembly.
- 1956—To fix pay of General Assembly.
- (1914—To increase pay of the General Assembly. *Defeated.* Similar measures in 1922, 1924, 1946, and 1948 were also *defeated.*)
- 29— 1876—To allow General Assembly to set time of elections.
- 1916—To restrict special and local legislation.
- (1914—To restrict special and local legislation. *Defeated.* Sections 27 and 29 must be viewed together, as part of old 29 was transferred to 27 in 1876.)
- 30— 1924—*New.* To protect sinking funds from diversion.
- 31— 1950—*New.* To protect fund of Teachers-Employees Retirement from diversion.

#### ARTICLE III—Executive Department

- Section 1— 1873—To eliminate the office of the Superintendent of Public Works.
- 1944—To provide for the election of the Commissioners of Agriculture, Labor, and Insurance, as members of the Council of State.

#### ARTICLE IV—Judicial Department

- Section 2— 1873—To eliminate the Code Commission.
- 1876—To empower the General Assembly to establish courts inferior to the Supreme Court.
- 3— 1873—To eliminate the Code Commission.

- 6— 1888—To increase the number of Supreme Court justices from 3 to 5.
- 1936—To empower the General Assembly to increase the number of Supreme Court justices to 7, and to allow Court to sit in divisions.
- 1954—To permit the General Assembly to provide for retirement of Supreme Court justices and for their recall to sit in emergencies.
- (1930—To increase the number of Supreme Court justices to 7. *Defeated.*)
- 8— 1876—To reduce the number of associate Supreme Court justices from 4 to 2.
- 9— 1876—To eliminate the specific time for the Supreme Court.
- 10— 1876—To restore to the Supreme Court its jurisdiction over “issues of fact” as exercised before 1868.
- 1950—To permit the General Assembly to allocate judicial districts with one or more judges to a district.
- 11— 1916—To provide for the appointment of emergency judges.
- 1950—To continue the rotation of judges and to permit the Chief Justice to assign Superior Court judges to their terms.
- (1914—To provide for the appointment of emergency judges. *Defeated.*)
- 12— 1876—To reduce the number of Superior Court judges from 12 to 9.
- 14— 1876—To restore the principle of rotation of Superior Court judges.
- 15— 1876—To affect this section by permitting the General Assembly to prescribe the jurisdiction of the inferior courts.
- 16— 1876—To affect this section by permitting the General Assembly to prescribe the jurisdiction of the inferior courts.
- 17— 1876—To affect this section by permitting the General Assembly to prescribe the jurisdiction of the inferior courts.
- 20—(1914—To remove section as obsolete. *Defeated.*)
- 23— 1942—To provide for 21 solicitorial districts with power to increase.
- (1892—To provide for the election of solicitors by the state at large at the discretion of the General Assembly.)

- (1928—To fix 24 solicitorial districts with legislative power to vary. *Defeated.*)
- (1930—To fix 20 solicitorial districts with legislative power to vary. *Defeated.*)
- (1932—To empower General Assembly to vary solicitorial districts. *Defeated.*)
- (1932—To increase the terms of sheriffs and coroners to 4 years. *Defeated.*)
- 24— 1938—To increase the terms of sheriffs and coroners to 4 years.
- 25— 1952—To permit Governor to fill vacancies in state judicial offices.
- 26— 1876—To consolidate sections, eliminate obsolete provisions.
- (1914—To remove obsolete provisions. *Defeated.*)
- 27— 1876—To consolidate sections, eliminate obsolete provisions.
- 30— 1876—*New.* To permit General Assembly to provide for election of inferior court judges for terms not exceeding eight years.
- 31— 1876—*New.* To permit General Assembly to remove justices and judges for inability by two-thirds vote.
- 32— 1876—*New.* To provide for the removal of court clerks for inability.
- 33— 1876—*New.* To provide that no amendments of the Convention shall vacate any constitutional term of office.
- (1914—To remove obsolete provisions. *Defeated.*)

Note: The 1876 Convention rewrote old section 31 to permit the Governor to fill vacancies in judicial offices until the next general election, and rewrote old section 33 to cover the jurisdiction of justices of the peace allowing appeals in all cases before them; later in the Convention, other provisions were assigned these numbers and these two provisions became sections 25 and 27 respectively—at the end of the Convention.

#### ARTICLE V—Revenue and Taxation

- Section 1— 1920—To limit poll tax to \$2 State, \$1 municipal.
- (1914—To permit classification and segregation for taxation. *Defeated.*)
- 2— 1914—To permit classification and segregation for taxation. *Defeated.*)
- 3— 1918—To exempt homestead notes to \$3000 from taxation.
- 1920—To permit, with exemptions, income tax to 6%.

- 1924—To increase exemption of homestead notes.
- 1936—To authorize the classification of realty, personalty, for the purpose of taxation, and to permit income tax to 10%.
- (1914—To permit classification and segregation for taxation. *Defeated.*)
- (1928—To provide for the classification of intangible property for taxation. *Defeated.*)
- (1930—To permit the classification of realty, personalty, for taxation. *Defeated.*)
- 4— 1873—To make the state debt limit more flexible.
- 1920—To abolish the poll tax as a prerequisite to voting.
- 1924—To limit state debt to  $7\frac{1}{2}\%$  of taxable property value.
- 1936—To authorize the classification of realty, personalty, for taxation and permit income tax to 10% of income, and to limit new debts to  $\frac{2}{3}$  reduction during the prior two years.
- (1914—To permit classification and segregation for taxation. *Defeated.*)
- (1948—To remove the limitations on the debt-making power of the General Assembly. *Defeated.*)
- 5— 1936—To permit the General Assembly to exempt homesteads, to \$1000, from taxation.
- (1914—To permit classification and segregation for taxation. *Defeated.*)
- 6— 1873—To exempt public property from taxation and permit, to \$300, the exemption of certain personalty.
- 1920—To reduce tax limit on property to 15¢ on \$100.
- 1952—To limit state and county tax to 20¢ on \$100.
- (1914—To permit classification and segregation for taxation. *Defeated.*)
- (1948—To increase the limit on property tax to 25¢ on \$100. *Defeated.*)
- 7—(1914—To permit classification and segregation for taxation. *Defeated.*)

#### ARTICLE VI—Suffrage and Eligibility to Office

- Section 1— 1876—To make residence requirement for voting twelve months in state, ninety days in county.
- 1900—To rewrite art. VI—two years residence in state, four in county, for voting, etc.

- 2— 1900—To rewrite art. VI, as above.
- 1920—To make residence requirement for voting one year in state.
- 1954—To reduce precinct residence for voting to thirty days.
- 3— 1900—To rewrite art. VI. See section 1, above.
- 4— 1900—To rewrite art. VI. See section 1, above.
- 1920—To eliminate poll-tax payment as voting requirement.
- 5— 1900—To rewrite art. VI. See section 1, above.
- 6— 1900—To rewrite art. VI. See section 1, above.
- 7— 1900—To rewrite art. VI. See section 1, above.
- 8— 1900—To rewrite art. VI. See section 1, above.
- 9— 1900—To rewrite art. VI. See section 1, above.

#### ARTICLE VII—Municipal Corporations

- Section 7— 1948—To authorize local-unit debt for other than “necessary expenses” when *majority vote in the election* concerned approves.
- 9—(1914—To permit classification and segregation for taxes. *Defeated.*)
- 13— 1876—*New.* To permit the General Assembly to disregard any section of this municipal corporations article except sections 7, 9, 13.
- (1914—To substitute “War Between the States” for “insurrection and rebellion against the United States.” *Defeated.*)

#### ARTICLE VIII—Corporations Other Than Municipal

- Section 1— 1916—To eliminate the chartering of corporations by special act.
- (1914—To eliminate the chartering of corporations by special act. *Defeated.*)
- 4— 1916—To eliminate the chartering of corporations by special act.
- (1914—To eliminate the chartering of corporations by special act. *Defeated.*)

#### ARTICLE IX—Education

- Section 2— 1876—To provide for separate schools for the races.
- 3— 1918—To provide for a six months school term.
- (1914—To provide for a six months school term. *Defeated.*)



- 4— 1876—To eliminate provision as to funds from estrays and as fines, penalties, etc. and to allow capital of education fund to be appropriated for education.
- 5— 1873—To place University under the control of the General Assembly.
- 1876—*New.* To put proceeds from penalties, fines, and forfeitures from sale of estrays in county school funds.
- 8— 1942—To reconstitute the Board of Education so as to have a member from each congressional district named by the Governor.
- 1944—To rewrite the above, reducing number of districts, eliminating Comptroller of the Board as a constitutional officer, etc.
- 9— 1942—To reconstitute the Board of Education with member from each congressional district, as in s. 8 above.
- 10— 1942—To reconstitute the Board of Education with member from each congressional district, as in s. 8 above.
- 11— 1942—To reconstitute the Board of Education with member from each congressional district, as in s. 8 above.
- 12— 1942—To reconstitute the Board of Education with member from each congressional district, as in s. 8 above.
- 1956—To permit education grants for private schools where parents object to public school and to authorize local vote to close public schools.
- 13— 1873—To place University under the control of the General Assembly.
- 1942—Same as section 8 above.
- 14— 1873—To place University under the control of the General Assembly.
- 1942—To reconstitute Board of Education. Same as section 8.
- 15— 1873—To place the University under the control of the General Assembly.
- 1942—To reconstitute Board of Education. Same as section 8.

#### ARTICLE X—Homesteads and Exemptions

- Section 6— 1956—To permit married women to exercise powers of attorney executed to them by their husbands.
- 7— 1932—To exempt a man's insurance for the benefit of his wife and children from payment of his debts.

- 8— 1944—To eliminate private examination of wife in authenticating her signature on a homestead deed.

# ARTICLE XI—Punishments, Penal Institutions, and Public Charities

Section 1— 1876—To authorize the use of convicts in public works.

- 10— 1880—To permit the General Assembly to provide for the *indigent* deaf, blind, insane, etc.

# ARTICLE XII—Militia

No amendments or proposed amendments.

# ARTICLE XIII—Amendments

Section 1— 1876—To make two-thirds vote of each house of General Assembly plus majority vote of the people necessary to call a constitutional convention.

- 2— 1876—To make three fifths vote of both houses of General Assembly necessary to submit an amendment to the people.

(1932—To permit the holding of special elections for a vote on constitutional amendments. *Defeated.*)

# ARTICLE XIV—Miscellaneous

Section 7— 1873—To prohibit dual office-holding by state, federal, officers.

1944—To add notaries to those exempt from the provisions of dual office-holding prohibition.

- 8— 1876—*New.* To prohibit intermarriage of white and negro of descent to the third generation.