

Orleans shall be entitled to Six Representatives to be elected as follows: one by the first senatorial district within the said county, four by the second district, and one by the third district—The county of German Coast, to two Representatives, the county of Acadia, to two Representatives; the county of Iberville, to two Representatives; the county of Lafourche, to two Representatives; to be elected as follows: one by the parish of the assumption, and the other by the parish of the interior; the county of Rapides, to two Representatives; the county of Natchitoches, to one Representative; the county of Concordia, to one Representative; the county of Ouachitta, to one Representative; the county of Opelloussas, to two Representatives; the county of Attakapas, to three Representatives to be elected as follows: two by the parish of St. Martin and the third by the parish of St. Mary, and the respective senatorial districts created by this Constitution, to one senator each.

Done in Convention, at New Orleans, the twenty second day of the month of January, in the year of our Lord one thousand eight hundred and twelve, and of the independence of the United States of America, the thirty-sixth.

J. POYDRAS.

*President of the Convention.*

ELIGIUS FROMENTIN.

*Secretary of the Convention.*

## CONSTITUTION OF LOUISIANA—1845 \* \*

### PREAMBLE

We, the people of the State of Louisiana, do ordain and establish this constitution:

### TITLE I

#### DISTRIBUTION OF POWERS

ARTICLE 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

### TITLE II

#### LEGISLATIVE DEPARTMENT

<sup>1</sup> ART. 3. The legislative powers of the State shall be vested in two distinct branches, the one to be styled the "house of representatives."

\* Verified by copy of the constitution of Louisiana published by Bloomfield & Steel, New Orleans, 1861.

\* This constitution was framed by a convention which met at Jackson August 5, 1844, and adjourned to New Orleans August 24, 1844. It resumed its labors at New Orleans January 14, 1845, and completed them May 16, 1845. The constitution was submitted to the people, and ratified November 5, 1845.

the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November every two years; and the election shall be completed in one day. The general assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed by law, and their session shall be held at the seat of government.

ART. 6. No person shall be a representative who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

ART. 7. Elections for representatives for the several parishes or representative districts shall be held at the several election-precincts established by law. The legislature may delegate the power of establishing election-precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives shall be equal and uniform, and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one representative; no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first enumeration to be made by the State authorities under this constitution shall be made in the year 1847, the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law for the purpose of ascertaining the total population and the number of qualified electors in each parish and election-district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election-districts on the basis of qualified electors as aforesaid. A representative number shall be fixed, and each parish and election-district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one-half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi shall be divided into nine representative districts, as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle, and Thalia streets.

2d. Second district to extend from the last-mentioned limits to the middle of Julia street, until it strikes the New Orleans Canal; thence down said canal to the lake.

3d. Third district to comprise the residue of the second municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of Saint Louis street, until it reaches the Metairie road; thence along said road to the New Orleans Canal.

5th. Fifth district to extend from the last-mentioned limits to the middle of Saint Philip street; thence down said street until its intersection with the Bayou Saint John; thence along the middle of said Bayou until it intersects the Metairie road; thence along said road until it reaches Saint Louis street.

6th. Sixth district to be composed of the residue of the first municipality.

7th. Seventh district, from the middle of Esplanade street to the middle of Champs Elysées street.

8th. Eighth district, from the middle of Champs Elysées street to the middle of Enghein street and La Fayette avenue.

9th. Ninth district, from the middle of Enghein street and La Fayette avenue to the lower limits of the parish.

ART. 9. The house of representatives shall choose its speaker and other officers.

ART. 10. In all elections by the people, every free white male, who has been two years a citizen of the United States, who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting: *Provided*, That no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall in all cases, except treason, felony, breach of surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

ART. 11. Absence from the State for more than ninety consecutive days shall interrupt the acquisition of the residence required in the preceding section, unless the person absenting himself shall be a housekeeper, or shall occupy a tenement for carrying on business, and his dwelling-house or tenements for carrying on business shall be actually occupied, during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

ART. 12. No soldier, seaman or marine in the Army or Navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

ART. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and, in cities and towns divided into election-precincts, in the election-precinct in which he resides.

ART. 14. The members of the senate shall be chosen for the term of four years. The senate, when assembled, shall have the power to choose its officers every two years.

ART. 15. The legislature, in every year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature;

but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, That no parish shall be entitled to more than one-eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if, in the apportionment to be made, a parish or district fall short of or exceed the ratio one-fifth, then a district may be formed having not more than two senators, but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the [eighth] article, the legislature shall not pass any law until an apportionment of representation in both houses of the general assembly be made.

ART. 17. At the first session of the general assembly after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and lots shall be drawn between them.

ART. 18. No person shall be a senator who at the time of his election has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and the last year thereof in the district in which he may be chosen.

ART. 19. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

ART. 20. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members.

ART. 21. Each house of the general assembly shall judge of the qualification, election, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 22. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

ART. 23. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of

the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 24. Each house may punish, by imprisonment, any person not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 25. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 26. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to, and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

ART. 27. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

ART. 28. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

ART. 29. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly.

ART. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the general assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

ART. 31. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon; unless, in case of urgency, four-fifths of the house where the bill shall be pending may deem it expedient to dispense with this rule.

ART. 32. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills: *Provided*, They shall not introduce any new matter, under color of an amendment, which does not relate to raising revenue.

ART. 33. The general assembly shall regulate by law by whom and

in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

Art. 34. A majority of all the members elected to the senate shall be required for the confirmation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate, in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments, respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

Art. 35. Returns of all elections for members of the general assembly shall be made to the secretary of state.

Art. 36. A treasurer of the State shall be elected biennially, by joint ballot of the two houses of the general assembly. The governor shall have power to fill any vacancy that may happen in that office during the recess of the legislature.

Art. 37. In the year in which a regular election for a Senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

### TITLE III

#### EXECUTIVE DEPARTMENT

Art. 38. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years; and, together with the lieutenant-governor chosen for the same term, be elected as follows: The qualified electors for representatives shall vote for a governor and lieutenant-governor, at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives, on the second day of the session of the general assembly, then next to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but if two or more persons shall be equal, and highest in the number of votes polled for governor, one of them shall immediately be chosen governor, by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant-governor shall be lieutenant-governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant-governor, one of them shall be immediately chosen lieutenant-governor, by joint vote of the members of the general assembly.

Art. 39. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within the State for the same space of time next preceding his election.

Art. 40. The governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his

successor shall be declared duly elected, and shall have taken the oath or affirmation prescribed by this constitution.

ART. 41. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 42. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant-governor.

ART. 43. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, 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 governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the governor and lieutenant-governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

ART. 44. The lieutenant-governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled had he continued in office.

ART. 45. The lieutenant-governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

ART. 46. While he acts as president of the senate, the lieutenant-governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

ART. 47. The governor shall have power to grant reprieves for all offences against the State, and, except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons, and remit fines and forfeitures, after conviction. In cases of treason, he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

ART. 48. The governor shall at stated times receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

ART. 49. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States.

ART. 50. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, and whose appointment is not therein otherwise provided for: *Provided, however,* That the legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 51. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution; but no person who has been nomi-

nated for office, and rejected by the senate, shall be appointed to the same office during the recess of the senate.

ART. 52. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

ART. 53. He shall, from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 54. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from epidemic; and in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 55. He shall take care that the laws be faithfully executed.

ART. 56. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return; in which case it shall be a law unless sent back within three days after their next meeting.

ART. 57. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected to each house of the general assembly.

ART. 58. There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and, when necessary, shall attest them. He shall, when required, lay the said register, and all papers, minutes, and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 59. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal, and signed by the governor.

ART. 60. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies



whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

ART. 61. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

#### TITLE IV

##### JUDICIARY DEPARTMENT

ART. 62. The judicial power shall be vested in a supreme court, in district courts, and in justices of the peace.

ART. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases where the matter in dispute shall exceed three hundred dollars, and to all cases in which the constitutionality or legality of any tax, toll, or impost, of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures, and penalties imposed by municipal corporations, and in criminal cases on questions of law alone, whenever the punishment of death or hard labor may be inflicted, or when a fine exceeding three hundred dollars is actually imposed.

ART. 64. The supreme court shall be composed of one chief justice and of three associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars annually. The court shall appoint its own clerks. The judges shall be appointed for the term of eight years.

ART. 65. When the first appointments are made under this constitution, the chief justice shall be appointed for eight years, one of the associate judges for six years, one for four years, and one for two years; and in the event of the death, resignation, or removal of any of said judges before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of his term; so that the term of service of no two of said judges shall expire at the same time.

ART. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 67. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 68. In all cases in which the judges shall be equally divided in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinions in writing.

ART. 69. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude against the peace and dignity of the same.

ART. 70. The judges of all the courts within this State shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which their judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings, except for the payment of such fees to ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office or other compensation than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of three-fourths of the members present of each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney-general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART. 75. The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shall not be less than twelve nor more than twenty.

For each district one judge, learned in the law, shall be appointed, except in the districts in which the cities of New Orleans and La Fayette are situated, in which the legislature may establish as many district courts as the public interest may require.

ART. 76. Each of the said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, and shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practised law therein for the space of five years.

ART. 77. The judges of the district courts shall hold their offices for the term of six years. The judges first appointed shall be divided by lot into three classes, as nearly equal as can be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

ART. 78. The district courts shall have original jurisdiction in all civil cases, when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders and do such acts as may be

deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts shall be removable for breach of good behavior by the judges thereof; subject in all cases to an appeal to the supreme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the district courts in this State shall be elected by the qualified electors in each parish, for the term of four years, and, should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 83. A sheriff and a coroner shall be elected in each parish, by the qualified voters thereof, who shall hold their offices for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

## TITLE V

### IMPEACHMENT

ART. 84. The power of impeachment shall be vested in the house of representatives.

ART. 85. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, State treasurer, and of the judges of the district courts, shall be tried by the senate; the chief-justice of the supreme court, or the senior judge thereof, shall preside during the trial of such impeachment. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

ART. 86. Judgments in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

ART. 87. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency of such impeachment; the appointing power may make a provisional appointment to replace any suspended officer until the decision on the impeachment.

ART. 88. The legislature shall provide by law for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

## TITLE VI

## GENERAL PROVISIONS

**ART. 89.** Members of the general assembly, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation:

"I, [A. B.,] do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all the duties incumbent on me as \_\_\_\_\_, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear [or affirm] that, since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, with a citizen of this State, nor have I sent or accepted a challenge to fight a duel with deadly weapons with a citizen of this State, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So help me God.

**ART. 90.** Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

**ART. 91.** Every person shall be disqualified from holding any office of trust or profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

**ART. 92.** Laws shall be made to exclude from office, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

**ART. 93.** No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as shall be prescribed by law.

**ART. 94.** It shall be the duty of the general assembly to pass such laws as may be proper and necessary to decide differences by arbitration.

**ART. 95.** All civil officers for the State at large shall reside within the State, and all district or parish officers within their districts or parishes, and shall keep their offices at such places therein as may be required by law. And no person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election or appointment to have acquired the right of voting in such parish; and no person shall be elected or appointed to any district office who shall not have resided in such district, or an adjoining district, long enough before such appointment or election to have acquired the right of voting for the same.

**ART. 96.** The duration of all offices not fixed by this constitution shall never exceed four years.

ART. 97. All civil officers, except the governor and judges of the supreme and district courts, shall be removable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

ART. 98. Absence on the business of this State or of the United States shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

ART. 99. It shall be the duty of the legislature to provide by law for deductions from the salaries of public officers who may be guilty of a neglect of duty.

ART. 100. The legislature shall point out the manner in which a person coming into the State shall declare his residence.

ART. 101. In all elections by the people the vote shall be by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 102. No member of Congress, or person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

ART. 103. The laws, public records, and the judicial and legislative written proceedings of the State, shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.

ART. 104. The secretary of the senate and clerk of the house of representatives shall be conversant with the French and English languages, and members may address either house in the French or English language.

ART. 105. The general assembly shall direct by law how persons who are now or may hereafter become sureties for public officers may be discharged from such suretyship.

ART. 106. No power of suspending the laws of this State shall be exercised, unless by the legislature, or by its authority.

ART. 107. Prosecutions shall be by indictment or information. The accused shall have a speedy public trial by an impartial jury of the vicinage; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right, unless he shall have fled from justice, of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor.

ART. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

ART. 109. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed, nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

ART. 110. The press shall be free. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The general assembly which shall meet after the first election of representatives under this constitution shall, within the first month after the commencement of the session, designate and fix the seat of government at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route, and if on the Mississippi River by the meanders of the same; and, when so fixed, it shall not be removed without the consent of four-fifths of the members of both houses of the general assembly. The sessions shall be held in New Orleans until the end of the year 1848.

ART. 113. The legislature shall not pledge the faith of the State for the payment of any bonds, bills, or other contracts or obligations for the benefit or use of any person or persons, corporation, or body-politic whatever. But the State shall have the right to issue new bonds in payment of its outstanding obligations or liabilities, whether due or not; the said new bonds, however, are not to be issued for a larger amount, or at a higher rate of interest, than the original obligations they are intended to replace.

ART. 114. The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in the case of war, to repel invasions or suppress insurrections, unless the same be authorized by some law, for some single object or work, to be distinctly specified therein; which law shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall be irrevocable until principal and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

ART. 115. The legislature shall provide by law for a change of venue in civil and criminal cases.

ART. 116. No lottery shall be authorized by this State, and the buying or selling of lottery-tickets within the State is prohibited.

ART. 117. No divorce shall be granted by the legislature.

ART. 118. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

ART. 119. 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.

ART. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws, but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint-stock company.

ART. 122. No corporate body shall be hereafter created, renewed, or extended with banking or discounting privileges.

ART. 123. Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the legislature shall provide, by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

ART. 124. From and after the month of January, 1890, the legisla-

ture shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

ART. 125. The general assembly shall never grant any exclusive privilege or monopoly for a longer period than twenty years.

ART. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace.

ART. 127. Taxation shall be equal and uniform throughout the State. After the year 1848, all property on which taxes may be levied in this State shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

ART. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the legislature: *Provided*, That the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders, and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

ART. 129. The legislature may provide by law in what cases officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

ART. 130. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, with a citizen of this State, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, with a citizen of this State, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of profit, and of enjoying the right of suffrage under this constitution.

ART. 131. The legislature shall have power to extend this constitution and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

ART. 132. The constitution and laws of this State shall be promulgated in the English and French languages.

## TITLE VII

### PUBLIC EDUCATION

ART. 133. There shall be appointed a superintendent of public education, who shall hold his office for two years. His duties shall be prescribed by law. He shall receive such compensation as the legislature may direct.

ART. 134. The legislature shall establish free public schools throughout the State, and shall provide means for their support by taxation on property, or otherwise.

ART. 135. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund on which the State shall pay an annual interest of 6 per cent.; which interest, together with all the rents of the unsold lands, shall be appropriated to the support of such schools, and this appropriation shall remain inviolable.

ART. 136. All moneys arising from the sales which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which, at 6 per cent. per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than to the establishment and improvement of said seminary of learning.

ART. 137. A university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: One of law, one of medicine, one of the natural sciences, and one of letters.

ART. 138. It shall be called the "University of Louisiana," and the medical college of Louisiana, as at present organized, shall constitute the faculty of medicine.

ART. 139. The legislature shall provide by law for its further organization and government, but shall be under no obligation to contribute to the establishment or support of said university by appropriations.

## TITLE VIII

### MODE OF REVISING THE CONSTITUTION

ART. 140. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by three-fifths of the members elected to each house, and approved by the governor, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published, three months before the next general election, in at least one newspaper in French and English, in every parish in the State, in which a newspaper shall be published; and if in the legislature next afterwards chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at



said election; and if a majority of the qualified electors shall approve and ratify such amendment or amendments, the same shall become a part of the constitution. If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately.

## TITLE IX

### SCHEDULE

**ART. 141.** The constitution adopted in eighteen hundred and twelve is declared to be superseded by this constitution, and, in order to carry the same into effect, it is hereby declared and ordained as follows:

**ART. 142.** All rights, actions, prosecutions, claims, and contracts, as well as of individuals as of bodies-corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, shall continue as if the same had not been adopted.

**ART. 143.** Until the first enumeration shall be made as directed in article eighth of this constitution, the parish of Orleans shall have twenty representatives, to be elected as follows, viz:

Eight by the first municipality, seven by the second municipality, and four by the third municipality, to be distributed among the nine representative districts as follows: By allotting to the first district, two; second, two; third, three; fourth, three; fifth, three; sixth, two; seventh, two; eighth, one; ninth, one; and to that part of the parish on the right bank of the Mississippi, one.

The parish of Plaquemines shall have three; Saint Bernard, one; Jefferson, three; Saint Charles, one; Saint John the Baptist, one; Saint James, two; Ascension, two; Assumption, three; La Fourche Interior, three; Terre Bonne, two; Iberville, two; West Baton Rouge, one; East Baton Rouge, three; West Feliciana, two; East Feliciana, three; Saint Helena, one; Washington, one; Livingston, one; Saint Tammany, one; Point Coupee, one; Concordia, one; Tensas, one; Madison, one; Carroll, one; Franklin, one; Saint Mary, two; Saint Martin, three; Vermillion, one; La Fayette, two; Saint Landry, five; Calcasieu, one; Avoyelles, two; Rapides, three; Natchitoches, three; Sabine, two; Caddo, one; De Soto, one; Ouachita, one; Morehouse, one; Union, one; Jackson, one; Caldwell, one; Catahoula, two; Claiborne, two; Bossier, one; total, ninety-eight.

And the State shall be divided into the following senatorial districts: All that portion of the parish of Orleans lying on the east side of the Mississippi River shall compose one senatorial district, and shall elect four senators; the parishes of Plaquemines, Saint Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator; the parish of Jefferson shall compose one district, with one senator; the parishes of Saint Charles and Saint John the Baptist shall compose one district, with one senator; the parish of Saint James shall compose one district, with one senator; the parish of Ascension shall compose one district, with one senator; the parishes of Assumption, La Fourche Interior, and Terre Bonne, shall compose one district, with two senators; the parishes of Iberville and West Baton Rouge shall compose one district, with one senator: the parish of East Baton Rouge

shall compose one district, with one senator; the parish of Point Coupee shall compose one district, with one senator; the parish of Avoyelles shall compose one district, with one senator; the parish of Saint Mary shall compose one district, with one senator; the parish of Saint Martin shall compose one district, with one senator; the parishes of La Fayette and Vermillion shall compose one district, with one senator; the parishes of Saint Landry and Calcasieu shall compose one district, with two senators; the parish of West Feliciana shall compose one district, with one senator; the parish of East Feliciana shall compose one district, with one senator; the parishes of Saint Helena and Livingston shall compose one district, with one senator; the parishes of Washington and Saint Tammany shall compose one district, with one senator; the parishes of Concordia and Tensas shall compose one district, with one senator; the parishes of Carroll and Madison shall compose one district, with one senator; the parishes of Jackson, Union, Morehouse, and Ouachita shall compose one district, with one senator; the parishes of Caldwell, Franklin, and Catahoula shall compose one district, with one senator; the parish of Rapides shall compose one district, with one senator; the parishes of Bossier and Claiborne shall compose one district, with one senator; the parish of Natchitoches shall compose one district, with one senator; the parishes of Sabine, De Soto, and Caddo shall compose one district, with one senator.

ART. 144. In order that no inconvenience may result to the public service from the taking effect of this constitution, no office shall be superseded thereby, but the laws of the State relative to the duties of the several officers, executive, judicial, and military, shall remain in full force, though the same be contrary to this constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, until the organization of the government under this constitution, and the entering into office of the new officers, to be appointed under said government, and no longer.

ART. 145. Appointments to office by the executive under this constitution shall be made by the governor to be elected under its authority.

ART. 146. The provisions of article twenty-eight, concerning the inability of members of the legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first legislature elected under this constitution.

ART. 147. The time of service of all officers chosen by the people, at the first election under this constitution, shall terminate as though the election had been holden on the first Monday of November, 1845, and they had entered on the discharge of their duties at the time designated therein.

ART. 148. The legislature shall provide for the removal of all causes now pending in the supreme or other courts of the State, under the constitution of 1812, to courts created by this constitution.

ART. 149. Appeals to the supreme court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas, and Concordia, shall, until otherwise provided for, be returnable to New Orleans.

## TITLE X

## ORDINANCE

ART. 150. Immediately after the adjournment of the convention, the governor shall issue his proclamation, directing the several officers of this State, authorized by law to hold elections for members of the general assembly, to open and hold a poll in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this constitution. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written "The constitution accepted," or "The constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the parish judges and commissioners designated to preside over the same shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of state, in conformity to the provisions of the existing law upon the subject of elections.

ART. 151. Upon the receipt of the said returns, or on the first Monday of December, if the returns be not sooner received, it shall be the duty of the governor, the secretary of state, the attorney-general, and the State treasurer, in the presence of all such persons as may choose to attend, to compare the votes given at the said poll, for the ratification and rejection of this constitution, and if it shall appear from said returns that a majority of all the votes given are for ratifying this constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of the State of Louisiana. But whether this constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the polls, showing the number of votes cast in each parish for and against the said constitution.

ART. 152. Should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State, authorized by law to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846,) for governor, lieutenant-governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution. And the said election shall be conducted, and the returns thereof made, in conformity with the existing laws upon the subject of State elections.

ART. 153. The general assembly elected under this constitution shall convene at the State-house, in the city of New Orleans, upon the second Monday of February next (1846) after the elections; and

that the governor and lieutenant-governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

JOSEPH WALKER, *President.*

HORATIO DAVIS, *Secretary.*

## CONSTITUTION OF LOUISIANA—1852 \* a

### PREAMBLE

We, the people of the State of Louisiana, do ordain and establish this constitution.

### TITLE I

#### DISTRIBUTION OF POWERS

ARTICLE 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

### TITLE II

#### LEGISLATIVE DEPARTMENT

ART. 3. The legislative power of the State shall be vested in two distinct branches, the one to be styled "the house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November every two years; and the election shall be completed in one day. The general assembly shall meet annually, on the third Monday in January, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

ART. 6. Every duly-qualified elector under this constitution shall be eligible to a seat in the general assembly: *Provided*, That no person shall be a representative or senator, unless he be, at the time of his election, a duly-qualified voter of the representative or senatorial district from which he is elected.

\* This constitution was framed by a convention which met at Baton Rouge July 5, 1852, and completed its labors July 31, 1852. It was submitted to the people and ratified November-1, 1852.

\* Verified by "The Constitution of the State of Louisiana of 1852, Bloomfield and Steel, New Orleans, 1861."