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# CONSTITUTION

of the

# STATE OF MONTANA

As Adopted by the Constitutional Convention  
August 17, 1889; Ratified by the People,  
October 1, 1889; Amended Through  
the 1966 General Election; State  
Admitted, November 8, 1889.



1967

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# CONSTITUTION OF MONTANA

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# CONSTITUTION

## OF THE

# STATE OF MONTANA

AS ADOPTED BY THE CONSTITUTIONAL CONVENTION AUGUST 17, 1889;  
RATIFIED BY THE PEOPLE, OCTOBER 1, 1889; STATE ADMITTED,  
NOVEMBER 8, 1889.

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### PREAMBLE

We, the people of Montana, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do, in accordance with the provisions of the enabling act of congress, approved the twenty-second of February, A. D. 1889, ordain and establish this constitution.

### ARTICLE I

#### BOUNDARIES

Section 1. The boundaries of the state of Montana shall be as follows, to-wit: Beginning at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude, thence due west on the forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington, thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky mountains, thence following the crest of the Rocky mountains northward to its intersection with the Bitter Root mountains; thence northward along the crest of the Bitter Root mountains, to its intersection with the thirty-ninth degree of longitude west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along that boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along the twenty-seventh degree of longitude to the place of beginning.

### ARTICLE II

#### MILITARY RESERVATIONS

Section 1. Authority is hereby granted to and acknowledged in the United States to exercise exclusive legislation, as provided by the constitution of the United States, over the military reservations of Fort



Assinaboine, Fort Custer, Fort Keogh, Fort Maginnis, Fort Missoula, and Fort Shaw, as now established by law, so long as said places remain military reservations, to the same extent and with the same effect as if said reservations had been purchased by the United States by consent of the legislative assembly of the state of Montana; and the legislative assembly is authorized and directed to enact any law necessary or proper to give effect to this article.

Provided, that there be and is hereby reserved to the state the right to serve all legal process of the state, both civil and criminal, upon persons and property found within any of said reservations, in all cases where the United States has not exclusive jurisdiction.

### ARTICLE III

#### A DECLARATION OF RIGHTS OF THE PEOPLE OF THE STATE OF MONTANA

Section 1. All political power is vested in and derived from the people; all government of right originates with the people; is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 2. The people of the state have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the constitution of the United States.

Sec. 3. All persons are born equally free, and have certain natural, essential, and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties, of acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways.

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

Sec. 5. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sec. 6. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property, or character; and that right and justice shall be administered without sale, denial, or delay.

Sec. 7. The people shall be secure in their persons, papers, homes, and effects, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, nor without probable cause, supported by oath or affirmation, reduced to writing.

Sec. 8. Criminal offenses of which justice's courts and municipal and other courts, inferior to the district courts, have jurisdiction, shall, in all courts inferior to the district court, be prosecuted by complaint. All criminal actions in the district court, except those on appeal, shall be prosecuted by information, after examination and commitment by a magistrate, or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

A grand jury shall only be drawn and summoned when the district judge shall, in his discretion, consider it necessary, and shall so order.

Sec. 9. 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 except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislative assembly; no conviction shall work corruption of blood or forfeiture of estate; the estates of persons who may destroy their own lives shall descend or vest as in cases of natural death.

Sec. 10. No law shall be passed impairing the freedom of speech; every person shall be free to speak, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

Sec. 11. No ex post facto law nor law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislative assembly.

Sec. 12. No person shall be imprisoned for debt except in the manner prescribed by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

Sec. 13. The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when there-to legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to or paid into court for the owner.

Sec. 15. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution, or other beneficial use, and the right of way over the lands of others, for all ditches, drains, flumes, canals, and aqueducts, necessarily used in connection therewith, as well as the sites for reservoirs necessary for collecting and storing the same, shall be held to be a public use. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.

Sec. 16. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

Sec. 17. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner prescribed by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof. Any deposition authorized by this section may be received as evidence on the trial, if the witness shall be dead or absent from the state.

Sec. 18. No person shall be compelled to testify against himself, in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense.

Sec. 19. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

Sec. 20. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

Sec. 21. The privilege of the writ of habeas corpus shall never be suspended, unless, in case of rebellion, or invasion, the public safety require it.

Sec. 22. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

Sec. 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance, or by consent of the parties expressed in such manner as the law may prescribe, a trial by jury may be waived,

or a trial had by any less number of jurors than the number provided by law. A jury in a justice's court, both in civil cases and in cases of criminal misdemeanor, shall consist of not more than six persons. In all civil actions and in all criminal cases not amounting to felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all such jury concurred therein.

Sec. 24. Laws for the punishment of crime shall be founded on the principles of reformation and prevention, but this shall not affect the power of the legislative assembly to provide for punishing offenses by death.

Sec. 25. Aliens and denizens shall have the same right as citizens to acquire, purchase, possess, enjoy, convey, transmit, and inherit mines and mining property, and milling, reduction, concentrating, and other works, and real property necessary for or connected with the business of mining and treating ores and minerals: provided, that nothing herein contained shall be construed to infringe upon the authority of the United States to provide for the sale or disposition of its mineral and other public lands.

NOTE.—As to right of nonresident alien to inherit other than mining property, see section 91-519 et seq.

Sec. 26. The people shall have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

Sec. 27. No person shall be deprived of life, liberty, or property without due process of law.

Sec. 28. There shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

Sec. 29. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Sec. 30. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

Sec. 31. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace, or the suppression of domestic violence, except upon the application of the legislative assembly, or of the governor when the legislative assembly cannot be convened.

## ARTICLE IV

### DISTRIBUTION OF POWERS

Section 1. The powers of the government of this state are divided into three distinct departments: The legislative, executive, and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.



## ARTICLE V

## LEGISLATIVE DEPARTMENT

Section 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in article V, section 26, of this constitution, independent of the legislative assembly; and also reserve power, at their own option, to approve or reject at the polls, any act of the legislative assembly, except as to laws necessary for the immediate preservation of the public peace, health, or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in article V, section 26, of this constitution. The first power reserved by the people is the initiative and eight per cent. of the legal voters of the state shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition eight per cent. of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state, not less than four months before the election at which they are to be voted upon.

The second power is the referendum, and it may be ordered either by petition signed by five per cent. of the legal voters of the state; provided that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent. of the legal voters in such county, or, by the legislative assembly as other bills are enacted.

Referendum petitions shall be filed with the secretary of state, not later than six months after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people by the legislative assembly or by initiative or referendum petitions.

All elections on measures referred to the people of the state shall be had at the biennial regular general election, except when the legislative assembly, by a majority vote, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent. of the legal voters of a majority of the whole number of the counties of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for governor at the regular election last preceding the filing of any petition for the initiative or referendum shall be the basis on which the number of legal petitions and orders for the initiative and for the referendum shall be filed with the secretary of state; and in submitting the same to the people, he, and all other officers, shall be guided by the

general laws and the act submitting this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the initiative shall be as follows:

“Be it enacted by the people of Montana:”

This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure.

NOTE.—Section 1 is given as amended by proclamation by the governor December 7, 1906. by act approved March 2, 1905 (chapter 61, Laws of 1905), declared to be in force

Sec. 2. Senators shall be elected for the term of four years, and representatives for the term of two years, except as otherwise provided in this constitution.

Sec. 3. No person shall be a representative who shall not have attained the age of twenty-one years, or a senator who shall not have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected.

**Sec. 4.**

**Repeal**

This section was repealed by chapter 273, Laws of 1965, adopted at the general

election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Sec. 5. Each member of the first legislative assembly, as a compensation for his services shall receive six dollars for each day's attendance, and twenty cents for each mile necessarily traveled in going to and returning from the seat of government to his residence by the usually traveled route, and shall receive no other compensation, perquisite, or allowance whatsoever.

No session of the legislative assembly, after the first, which may be ninety days, shall exceed sixty days.

After the first session, the compensation of the members of the legislative assembly shall be as provided by law; provided, that no legislative assembly shall fix its own compensation.

**Proposed Amendment**

Chapter 248, Laws of 1967, proposes to amend this section to read as follows:

“Section 5. No session of the legislative assembly shall exceed eighty (80) days.

“The compensation of the members of the legislative assembly shall be as provided by law; however, no legislative assembly shall fix its own compensation.

Per diem and expense payments to members for days in session shall not be made for more than eighty (80) days.”

**Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 6. The legislative assembly (except the first) shall meet at the seat of government at twelve o'clock noon, on the first Monday of January, next succeeding the general election provided by law, and at twelve o'clock noon, on the first Monday of January, of each alternate year thereafter, and at other times when convened by the governor.

The term of service of the members thereof shall begin the next day after their election, until otherwise provided by law; provided, that the first legislative assembly shall meet at the seat of government upon the proclamation of the governor after the admission of the state into the Union, upon a day to be named in said proclamation, and which shall not be more than fifteen nor less than ten days after the admission of the state into the Union.

Sec. 7. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or in the militia) under the United States or this state, shall be a member of either house during his continuance in office.

Sec. 8. No member of either house shall, during the term for which he shall have been elected, receive any increase of salary or mileage under any law passed during such term.

Sec. 9. The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president pro tempore. The house of representatives shall elect one of its members speaker. Each house shall choose its other officers, and shall judge of the elections, returns, and qualifications of its members.

Sec. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

**Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the legislative assembly of a free state.

A member expelled for corruption shall not thereafter be eligible to either house of the legislative assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

Sec. 12. Each house shall keep a journal of its proceedings, and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question shall, at the request of any two members, be entered on the journal.

Sec. 13. The sessions of each house and of the committees of the whole shall be open, unless the business is such as requires secrecy.

Sec. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 15. The members of the legislative assembly shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Sec. 16. The sole power of impeachment shall vest in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the senate sitting for that purpose, and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

Sec. 17. The governor, and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit under the laws of the state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

Sec. 18. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

Sec. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

Sec. 20. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of Montana."

Sec. 21. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

Sec. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

Sec. 23. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.



Sec. 24. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

Sec. 25. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended shall be re-enacted and published at length.

Sec. 26. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions, or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever; for the punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury; relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices, or prescribing the powers or duties of officers in counties, cities, township or school districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable, no special law shall be enacted.

Sec. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal.

Sec. 28. The legislative assembly shall prescribe by law the number, duties and compensation of the officers and employees of each house; and no payment shall be made from the state treasury, or be in any way author-

ized to any such person, except to an acting officer or employee elected or appointed in pursuance of law.

Sec. 29. No bill shall be passed giving any extra compensation to any public officer, servant or employee, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the state without previous authority of law, except as may be otherwise provided herein.

Sec. 30. All stationery, printing, paper, fuel and lights used in the legislative and other departments of government, shall be furnished, and the printing, and binding and distribution of the laws, journals, and department reports and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the legislative assembly, and its committees shall be performed under contract, to be given to the lowest responsible bidder below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and state treasurer.

Sec. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emolument after his election or appointment: provided, that this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution.

**Proposed Amendment**

Chapter 154, Laws of 1967, proposes to amend this section to read as follows:

"Sec. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or diminish his salary or emolument after his election

or appointment: provided, that this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution."

Sec. 32. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in the case of other bills.

Sec. 33. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

Sec. 34. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.

Sec. 35. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

Sec. 36. The legislative assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal functions whatever.

Sec. 37. No act of the legislative assembly shall authorize the investment of trust funds by executors, administrators, guardians or trustees in the bonds or stock of any private corporation.

Sec. 38. The legislative assembly shall have no power to pass any law authorizing the state, or any county in the state, to contract any debt or obligation in the construction of any railroad, nor give or loan its credit to or in aid of the construction of the same.

Sec. 39. Except as hereinafter provided, no obligation or liability of any person, association or corporation, held or owned by the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the legislative assembly; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury.

It shall however be lawful for the legislative assembly, in such manner as it may direct, to authorize the cancellation of any personal property taxes which are not a lien on real estate and which have been delinquent for ten (10) years or more.

It shall also be lawful for the legislative assembly, in such manner as it may direct, to authorize the cancellation of any contractual obligation owed to or held by a county, for seed grain, feed or other relief, the collection of which obligation is barred by the statute of limitations.

NOTE.—Section 39 of article V is given the general election of November 2, 1948; as amended by act approved March 5, 1947 effective under governor's proclamation December 3, 1948. (chapter 197, Laws of 1947); adopted at

Sec. 40. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

Sec. 41. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the legislative assembly, in consideration or upon condition that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence, in favor of or against any other measure or proposition pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced in such legislative assembly, or offer, promise

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

Sec. 42. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the legislative assembly, to influence him in the performance of any of his official or public duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

Sec. 43. The offense of corrupt solicitation of members of the legislative assembly, or of public officers of the state, or of any municipal division thereof, and the occupation or practice of solicitation of such members or officers, to influence their official action, shall be defined by law, and shall be punishable by fine and imprisonment.

Sec. 44. A member who has a personal or private interest in any measure or bill proposed or pending before the legislative assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

**Sec. 45.**

**Repeal**

This section, as amended by chapter 137, Laws of 1931, was repealed by chapter 273, Laws of 1965, adopted at the

general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Sec. 46. The legislative assembly in order to insure continuity of state and local governmental operations in a period of emergency resulting from a disaster caused by enemy attack may enact laws:

(1) To provide for prompt and temporary succession to the powers and duties of elected and appointed public officers who are killed or incapacitated.

(2) To adopt other measures that may be necessary to insure the continuity of governmental operations.

Such laws shall be effective only during the emergency that affects a particular office or governmental operation, and such laws may deviate from other provisions of the Montana constitution, including but not limited to the following sections:

- (1) Section 3, Article X, seat of state government.
- (2) Section 2, Article XVI, seat of county governments.
- (3) Section 16, Article VII, succession to governor.



- (4) Section 4, Article XVI, vacancy on board of county commissioners.
- (5) Section 6, Article XVI, other vacancies in county government.
- (6) Section 45, Article V, vacancies in legislative assembly.
- (7) Section 11, Article VII, special legislative sessions.
- (8) Section 5, Article V, length of legislative session.
- (9) Section 10, Article V, quorum to do business in each house.
- (10) Section 6, Article XIX, location of county offices.
- (11) Section 1, Article VII, duties of executive officers of state.
- (12) Section 7, Article VII, appointments by governor.

NOTE.—Section 46 of article V was enacted as chapter 243, Laws of 1965, approved March 9, 1965; submitted and adopted at the general election of November 8, 1966, and became law by virtue of the governor's proclamation, December 6, 1966.

## ARTICLE VI

### APPORTIONMENT AND REPRESENTATION

Section 1. One representative in the congress of the United States shall be elected from the state at large, the first Tuesday in October, 1889, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by congress the legislative assembly shall divide the state into congressional districts accordingly.

Sec. 2. (1) The senate and house of representatives of the legislative assembly each shall be apportioned on the basis of population.

(2) The legislative assembly following each census made by the authority of the United States, shall revise and adjust the apportionment for representatives and senators on the basis of such census.

(3) At such time as the constitution of the United States is amended or interpreted to permit apportionment of one house of a state legislative assembly on factors other than population, the senate of the legislative assembly shall be apportioned on the basis of one senator for each county.

NOTE.—Section 2 of article VI is given as amended by act approved March 9, 1965 (chapter 273, Laws of 1965), adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Sec. 3. Senatorial and representative districts may be altered from time to time as public convenience may require. When a senatorial or representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be.

NOTE.—Section 3 of article VI is given as amended by act approved March 9, 1965 (chapter 273, Laws of 1965), adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

### Secs. 4 to 6.

#### Repeal

These sections were repealed by chapter 273, Laws of 1965, adopted at the general

election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

## ARTICLE VII

## EXECUTIVE DEPARTMENT

Section 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, attorney general, state treasurer, state auditor and superintendent of public instruction, each of whom shall hold his office for four years, or until his successor is elected and qualified, beginning on the first Monday of January next succeeding his election, except that the terms of office of those who are elected at the first election, shall begin when the state shall be admitted into the Union, and shall end on the first Monday of January, A. D. 1893. The officers of the executive department, excepting the lieutenant-governor, shall during their terms of office reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed in this constitution and by the laws of the state. The state treasurer shall not be eligible to his office for the succeeding term.

**Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 2. The officers provided for in section 1 of this article, shall be elected by the qualified electors of the state at the time and place of voting for members of the legislative assembly, and the persons respectively, having the highest number of votes for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the legislative assembly, at its next regular session, shall forthwith by joint ballot, elect one of such persons for said office. The returns of election for the officers named in section 1 shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

Sec. 3. No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction, unless he shall have attained the age of thirty years at the time of his election, nor to the office of secretary of state, state auditor, or state treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney general unless he shall have attained the age of thirty years, and have been admitted to practice in the supreme court of the state, or territory of Montana, and be in good standing at the time of his election. In addition to the qualifications above prescribed, each of the officers named shall be a citizen of the United States, and have resided within the state or territory two years next preceding his election.

Sec. 4. Until otherwise provided by law, the governor, secretary of state, state auditor, treasurer, attorney general and superintendent of public instruction, shall quarterly, as due, during their continuance in office, receive for their services compensation, which is fixed as follows:

Governor, five thousand dollars per annum;  
Secretary of state, three thousand dollars per annum;  
Attorney general, three thousand dollars per annum;  
State treasurer, three thousand dollars per annum;  
State auditor, three thousand dollars per annum;

Superintendent of public instruction, two thousand five hundred dollars per annum.

The lieutenant-governor shall receive the same per diem as may be prescribed by law for the speaker of the legislative assembly, to be allowed only during the sessions of the legislative assembly.

The compensation enumerated shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office, and the salary of no official shall be increased during his term of office. No officer named in this section shall receive, for the performance of any official duty, any fee for his own use, but all fees fixed by law for the performance by any officer of any official duty, shall be collected in advance, and deposited with the state treasurer quarterly to the credit of the state. No officer mentioned in this section shall be eligible to, or hold any other public office, except member of the state board of education during his term of office.

**Cross-Reference**

Salaries of state officers, 25-501.

Sec. 5. The supreme executive power of the state shall be vested in the governor, who shall see that the laws are faithfully executed.

Sec. 6. The governor shall be commander-in-chief of the militia forces of the state, except when these forces are in the actual service of the United States, and shall have power to call out any part or the whole of said forces to aid in the execution of the laws, to suppress insurrection or to repel invasion.

Sec. 7. The governor shall nominate, and by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If during a recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of secretary of state, state auditor, state treasurer, attorney-general or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified.

**Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 8. The legislative assembly shall provide for a state examiner, who shall be appointed by the governor and confirmed by the senate. His duty

shall be to examine the accounts of state treasurer, supreme court clerks, district court clerks, and all county treasurers and treasurers of such other public institutions as may be prescribed by law, and shall perform such other duties as the legislative assembly may prescribe. He shall report at least once a year and oftener if required to such officers as may be designated by the legislative assembly. His compensation shall be fixed by law.

Sec. 9. The governor shall have the power to grant pardons, absolute or conditional, and to remit fines and forfeitures, and to grant commutation of punishments and respites after conviction and judgment for any offenses committed against the criminal laws of the state; Provided, however, That before granting pardons, remitting fines and forfeitures, or commuting punishments, the governor shall be advised concerning the same and that such action has been approved by a board, or a majority thereof, who shall be known as the board of pardons. The legislative assembly shall by law prescribe for the appointment and composition of said board of pardons, its powers and duties; and regulate the proceedings thereof.

NOTE.—Section 9 of article VII is adopted at the general election of November 2, 1954; given as amended by act approved February 28, 1953 (chapter 106, Laws of 1953); effective under governor's proclamation December 7, 1954.

Sec. 10. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing, at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions, and may, at any time he deems it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or state institution. The governor shall at the beginning of each session, and from time to time, by message, give to the legislative assembly information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall also send to the legislative assembly a statement with vouchers of the expenditures of all moneys belonging to the state and paid out by him. He shall also at the beginning of each session present estimates of the amount of money required to be raised by taxation for all purposes of the state.

Sec. 11. He may on extraordinary occasions convene the legislative assembly by proclamation, stating the purposes for which it is convened, but when so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation, or which may be recommended by the governor, but may provide for the expenses of the session and other matters incidental thereto. He may also by proclamation convene the senate in extraordinary session for the transaction of executive business.

#### Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.



Sec. 12. Every bill passed by the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly shall by their adjournment prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislative assembly, unless approved by the governor within fifteen days after such adjournment. In case the governor shall fail to approve of any bill after the final adjournment of the legislative assembly it shall be filed, with his objections, in the office of the **secretary of state**.

Sec. 13. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts approved shall become a law, and the item or items disapproved shall be void, unless enacted in the manner following: If the legislative assembly be in session he shall within five days transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

Sec. 14. In case of the failure to qualify, the impeachment or conviction of felony or infamous crime of the governor, or his death, removal from office, resignation, absence from the state, or inability to discharge the powers and duties of his office, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall cease, shall devolve upon the lieutenant-governor.

Sec. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided. In case of the absence or disqualification of the lieutenant-governor, from any cause which applies to the governor, or when he shall hold the office of governor, then the president pro tempore of the senate shall perform the duties of the lieutenant-governor until the vacancy is filled or the disability removed.

Sec. 16. In case of the failure to qualify in his office, death, resignation, absence from the state, impeachment, conviction of felony or infamous crime, or disqualification from any cause, of both the governor and the lieutenant-governor, the duties of the governor shall devolve upon the presi-

dent pro tempore of the senate until such disqualification of either the governor or lieutenant-governor be removed, or the vacancy filled, and if the president pro tempore of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house.

**Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 17. The first legislative assembly shall provide a seal for the state, which shall be kept by the secretary of state and used by him officially, and known as the great seal of the state of Montana.

Sec. 18. All grants and commissions shall be in the name and by the authority of the state of Montana, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

Sec. 19. An account shall be kept by the officers of the executive department, and of all public institutions of the state of all moneys received by them, severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the governor, under oath; they shall also, at least twenty days preceding each regular session of the legislative assembly, make full and complete reports of their official transactions to the governor, who shall transmit the same to the legislative assembly.

Sec. 20. The governor, secretary of state and attorney general shall constitute a board of state prison commissioners, which board shall have such supervision of all matters connected with the state prisons as may be prescribed by law. They shall constitute a board of examiners, with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claim against the state, except for salaries and compensation of officers fixed by law, shall be passed upon by the legislative assembly without first having been considered and acted upon by said board. The legislative assembly may provide for the temporary suspension of the state treasurer by the governor, when the board of examiners deem such action necessary for the protection of the moneys of the state.

## ARTICLE VIII

### JUDICIAL DEPARTMENTS

Section 1. The judicial power of the state shall be vested in the senate sitting as a court of impeachment, in a supreme court, district courts, justices of the peace, and such other inferior courts as the legislative assembly may establish in any incorporated city or town.

#### SUPREME COURT

Sec. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive

with the state, and shall have a general supervisory control over all inferior courts, under such regulations and limitations as may be prescribed by law.

Sec. 3. The appellate jurisdiction of the supreme court shall extend to all cases at law and in equity, subject, however, to such limitations and regulations as may be prescribed by law. Said court shall have power in its discretion to issue and to hear and determine writs of habeas corpus, mandamus, quo-warranto, certiorari, prohibition and injunction, and such other original and remedial writs as may be necessary or proper to the complete exercise of its appellate jurisdiction. When a jury is required in the supreme court to determine an issue of fact, said court shall have power to summon such jury in such manner as may be provided by law. Each of the justices of the supreme court shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court of the state, or any judge thereof; and such writs may be heard and determined by the justice or court, or judge, before whom they are made returnable. Each of the justices of the supreme court may also issue and hear and determine writs of certiorari in proceedings for contempt in the district court, and such other writs as he may be authorized by law to issue.

Sec. 4. At least three terms of the supreme court shall be held each year at the seat of government.

Sec. 5. The supreme court shall consist of three justices, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said justices may adjourn the court from day to day, or to a day certain and the legislative assembly shall have the power to increase the number of said justices to not less nor more than five. In case any justice or justices of the supreme court shall be in any way disqualified to sit in a cause brought before such court, the remaining justice or justices shall have power to call on one or more of the district judges of this state as in the particular case may be necessary to constitute the full number of justices of which the said court shall then be composed, to sit with them in the hearing of said cause. In all cases where a district judge is invited to sit and does sit as by this section provided, the decision and opinion of such district judge shall have the same force and effect in any cause heard before the court as if regularly participated in by a justice of the supreme court.

NOTE.—Section 5 as amended by act of March 7, 1899 (Laws 1899, p. 152), effective by proclamation of the governor December 18, 1900. The original constitutional provision was before amended. See Laws of 1897, p. 57 (HB 166).

Sec. 6. The justices of the supreme court shall be elected by the electors of the state at large, as hereinafter provided.

Sec. 7. The term of office of the justices of the supreme court, except as in this constitution otherwise provided, shall be six years.

Sec. 8. There shall be elected at the first general election, provided for by this constitution, one chief justice and two associate justices of the supreme court. At said first election the chief justice shall be elected to hold his office until the general election in the year one thousand eight hundred ninety-two (1892), and one of the associate justices to hold his office until the general election in the year one thousand eight hundred ninety-four (1894), and the other associate justice to hold his office until the general election in the year one thousand eight hundred ninety-six (1896), and each shall hold until his successor is elected and qualified. The terms of office of said justices, and which one shall be chief justice, shall at the first and all subsequent elections be designated by ballot. After said first election one chief justice or one associate justice shall be elected at the general election every two years, commencing in the year one thousand eight hundred ninety-two (1892), and if the legislative assembly shall increase the number of justices to five, the first terms of office of such additional justices shall be fixed by law in such manner that at least one of the five justices shall be elected every two years. The chief justice shall preside at all sessions of the supreme court, and in case of his absence, the associate justice having the shortest term to serve shall preside in his stead.

Sec. 9. There shall be a clerk of the supreme court, who shall hold his office for the term of six years, except that the clerk first elected shall hold his office only until the general election in the year one thousand eight hundred ninety-two (1892), and until his successor is elected and qualified. He shall be elected by the electors at large of the state, and his compensation shall be fixed by law, and his duties prescribed by law, and by the rules of the supreme court.

Sec. 10. No person shall be eligible to the office of justice of the supreme court, unless he shall have been admitted to practice law in the supreme court of the territory or state of Montana, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in said territory or state at least two years next preceding his election.

#### DISTRICT COURTS

Sec. 11. The district courts shall have original jurisdiction in all cases at law and in equity, including all cases which involve the title or right of possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all cases in which the debt, damage, claim or demand, exclusive of interest, or the value of the property in controversy exceeds fifty dollars; and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for; of actions of forcible entry and unlawful detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of actions of divorce and for annulment of marriage, and for all such special actions and proceedings as are not otherwise provided for. And said courts shall have the power of naturalization, and to issue papers therefor, in all cases where they are authorized so to do by the laws of the United States. They shall have appellate jurisdiction in such cases arising in justices and other



inferior courts in their respective districts as may be prescribed by law and consistent with this constitution. Their process shall extend to all parts of the state, provided that all actions for the recovery of, the possession of, quieting the title to, or for the enforcement of liens upon real property, shall be commenced in the county in which the real property, or any part thereof, affected by such action or actions, is situated. Said courts and the judges thereof shall have power also to issue, hear and determine writs of mandamus, quo warranto, certiorari, prohibition, injunction and other original and remedial writs, and also all writs of habeas corpus on petition by, or on behalf of, any person held in actual custody in their respective districts. Injunctions, writs of prohibition and habeas corpus, may be issued and served on legal holidays and non-judicial days.

Sec. 12. The state shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the district court, whose term of office shall be four years, except that the district judges first elected shall hold their offices only until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. Any judge of the district court may hold court for any other district judge, and shall do so when required by law.

Sec. 13. Until otherwise provided by law judicial districts of the state shall be constituted as follows: First district, Lewis and Clark county; second district, Silver Bow county; third district, Deer Lodge county; fourth district, Missoula county; fifth district, Beaverhead, Jefferson and Madison counties; sixth district, Gallatin, Park and Meagher counties; seventh district, Yellowstone, Custer and Dawson counties; eighth district, Choteau, Cascade and Fergus counties.

Sec. 14. The legislative assembly may increase or decrease the number of judges in any judicial district; provided, that there shall be at least one judge in any district established by law; and may divide the state, or any part thereof, into new districts; provided, that each be formed of compact territory and be bounded by county lines, but no changes in the number or boundaries of districts shall work a removal of any judge from office during the term for which he has been elected or appointed.

Sec. 15. Writs of error and appeals shall be allowed from the decisions of said district courts to the supreme court under such regulations as may be prescribed by law.

Sec. 16. No person shall be eligible to the office of judge of the district court unless he be at least twenty-five years of age and a citizen of the United States, and shall have been admitted to practice law in the supreme court of the territory or state of Montana, nor unless he shall have resided in this state or territory at least one year next preceding his election. He need not be a resident of the district for which he is elected at the time of his election, but after his election he shall reside in the district for which he is elected during his term of office.

Sec. 17. The district court in each county which is a judicial district by itself shall be always open for the transaction of business, except on legal holidays and non-judicial days. In each district where two or more counties are united, until otherwise provided by law, the judges of such district shall fix the term of court, provided that there shall be at least four terms a year held in each county.

Sec. 18. There shall be a clerk of the district court in each county, who shall be elected by the electors of his county. The clerk shall be elected at the same time and for the same term as the district judge. The duties and compensation of the said clerk shall be as provided by law.

Sec. 19. There shall be elected at the general election in each county of the state one county attorney, whose qualifications shall be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be four years, and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the state, and the other half by the county for which he is elected, and he shall perform such duties as may be required by law.

NOTE.—Section 19 of article VIII is adopted at the general election of November, 1962, effective under governor's given as amended by act approved March 6, 1961 (chapter 164, Laws of 1961), proclamation December 17, 1962.

#### JUSTICES OF THE PEACE

Sec. 20. There shall be elected in each organized township of each county by the electors of such township at least two justices of the peace, who shall hold their offices, except as otherwise provided in this constitution, for the term of two years. Justices' courts shall have such original jurisdiction within their respective counties as may be prescribed by law, except as in this constitution otherwise provided; provided, that they shall not have jurisdiction in any case where the debt, damage, claim or value of the property involved exceeds the sum of three hundred dollars.

Sec. 21. Justices' courts shall not have jurisdiction in any case involving the title or right of possession of real property, nor in cases of divorce, nor for annulment of marriage, nor of cases in equity; nor shall they have power to issue writs of habeas corpus, mandamus, certiorari, quo warranto, injunction, or prohibition, nor the power of naturalization; nor shall they have jurisdiction in cases of felony, except as examining courts; nor shall criminal cases in said courts be prosecuted by indictment; but said courts shall have such jurisdiction in criminal matters, not of the grade of felony, as may be provided by law; and shall also have concurrent jurisdiction with the district courts in cases of forcible entry and unlawful detainer.

Sec. 22. Justices' courts shall always be open for the transaction of business, except on legal holidays and nonjudicial days.

Sec. 23. Appeal shall be allowed from justices' courts, in all cases, to the district courts, in such manner and under such regulations as may be prescribed by law.

#### POLICE AND MUNICIPAL COURTS

Sec. 24. The legislative assembly shall have power to provide for creating such police and municipal courts and magistrates for cities and towns as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns, respectively; such police magistrates may also be constituted ex-officio justices of the peace for their respective counties.

#### MISCELLANEOUS PROVISIONS

Sec. 25. The supreme and district courts shall be courts of record.

Sec. 26. All laws relating to courts shall be general and of uniform operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, shall be uniform.

Sec. 27. The style of all process shall be "The State of Montana," and all prosecutions shall be conducted in the name and by the authority of the same.

Sec. 28. There shall be but one form of civil action, and law and equity may be administered in the same action.

Sec. 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the state, a salary, which shall not be diminished during the terms for which they shall have been respectively elected.

NOTE.—Section 29 of article VIII is given as amended by act approved February 27, 1963 (chapter 92, Laws of 1963), adopted at the general election of November 3, 1964, effective under governor's proclamation December 7, 1964.

#### Cross-References

Salaries, judges of district courts, 93-303.  
Salary, justices of supreme court, 25-501.

Sec. 30. No justice of the supreme court nor judge of the district court shall accept or receive any compensation, fee, allowance, mileage, perquisite or emolument for or on account of his office, in any form whatever, except the salary provided by law.

Sec. 31. No justice or clerk of the supreme court, nor judge or clerk of any district court shall act or practice as an attorney or counsellor at law in any court of this state during his continuance in office.

Sec. 32. The legislative assembly may provide for the publication of decisions and opinions of the supreme court.

Sec. 33. All officers provided for in this article, excepting justices of the supreme court, who shall reside within the state, shall respectively re-

side during their term of office in the district, county, township, precinct, city or town for which they may be elected or appointed.

Sec. 34. Vacancies in the office of justice of the supreme court, or judge of the district court, or clerk of the supreme court, shall be filled by appointment, by the governor of the state, and vacancies in the offices of county attorney, clerk of the district court, and justices of the peace, shall be filled by appointment, by the board of county commissioners of the county where such vacancy occurs. A person appointed to fill any such vacancy shall hold his office until the next general election and until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected.

Sec. 35. No justice of the supreme court or district judge shall hold any other public office while he remains in the office to which he has been elected or appointed.

Sec. 36. A civil action in the district court may be tried by a judge pro tempore, who must be a member of the bar of the state, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause; and in such case any order, judgment or decree, made or rendered therein by such judge pro tempore, shall have the same force and effect as if made or rendered by the court with the regular judge presiding.

Sec. 37. Any judicial officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office.

## ARTICLE IX

### RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE

Section 1. All elections by the people shall be by ballot.

Sec. 2. Every person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or electors: First, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. If the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question. Provided, first, that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor: provided, second, that nothing herein contained shall be construed to de-



prive any person of the right to vote who has such right at the time of the adoption of this constitution; provided, that after the expiration of five years from the time of the adoption of this constitution, no person except citizens of the United States shall have the right to vote.

NOTE.—Section 2 of article IX is given as amended by act approved March 9, 1931 (chapter 101, Laws of 1931); adopted at the general election of November 8, 1932, effective under governor's proclama-

tion December 9, 1932. The original constitutional provision was before amended. See chapter 1, Laws of 1913, as later approved by the people.

Sec. 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the state, or of the United States, nor while engaged in the navigation of the waters of the state, or of the United States, nor while a student at any institution of learning, nor while kept at any almshouse or other asylum at the public expense, nor while confined in any public prison.

Sec. 4. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom.

Sec. 5. No elector shall be obliged to perform military duty on the days of election, except in time of war or public danger.

Sec. 6. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed at any military or naval place within the same.

Sec. 7. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state at least one year next before his election or appointment.

Sec. 8. No idiot or insane person shall be entitled to vote at any election in this state.

Sec. 9. The legislative assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

Sec. 10. All persons possessing the qualifications for suffrage prescribed by Section 2 of this article as amended and such other qualifications as the legislative assembly may by law prescribe, shall be eligible to hold the office of county superintendent of schools or any other school district office.

NOTE.—Section 10, article IX, is given as amended by act approved March 7, 1923 (chapter 97, Laws of 1923); adopted

at the general election of November 4, 1924; effective under governor's proclamation December 9, 1924.

Sec. 11. Any person qualified to vote at general elections and for state officers in this state, shall be eligible to any office therein except as otherwise provided in this constitution, and subject to such additional qualifications as may be prescribed by the legislative assembly for city offices and offices hereafter created.

Sec. 12. Upon all questions submitted to the vote of the taxpayers of the state, or any political division thereof, women who are taxpayers and possessed of the qualifications for the right of suffrage required of men by this constitution, shall equally with men have the right to vote.

Sec. 13. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes shall be declared elected.

## ARTICLE X

### STATE INSTITUTIONS AND PUBLIC BUILDINGS

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

Sec. 2. At the general election in the year one thousand eight hundred and ninety-two, the question of permanent location of the seat of government is hereby provided to be submitted to the qualified electors of the state, and the majority of all the votes upon said question shall determine the location thereof. In case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast shall be, and is hereby, submitted in like manner to the qualified electors at the next general election thereafter; provided, that until the seat of government shall have been permanently located the temporary seat of government shall be and remain at the city of Helena.

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

#### **Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 4. The legislative assembly shall make no appropriations or expenditures for capitol buildings or grounds until the seat of government shall have been permanently located, as herein provided.

Sec. 5. The several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.

## ARTICLE XI

### EDUCATION

Section 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free, common schools.

Sec. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

Sec. 3. Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

Sec. 4. The governor, superintendent of public instruction, secretary of state and attorney general shall constitute the state board of land commissioners, which shall have the direction, control, leasing and sale of the school lands of the state, and the lands granted or which may hereafter be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be prescribed by law.

Sec. 5. Ninety-five per centum (95%) of all the interest received on the school funds of the state, and ninety-five per centum (95%) of all rents received from the leasing of school lands and of all other income from the public school funds shall be apportioned annually to the several school districts of the state in proportion to the number of children and youths between the ages of six (6) and twenty-one (21) residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least six months during the year for which such distribution is made. The remaining five per centum (5%) of all the interest received on the school funds of the state, and the remaining five per centum (5%) of all the rents received from the leasing of school lands and of all other income from the public school funds, shall annually be added to the public school funds of the state and become and forever remain an inseparable and inviolable part thereof.

NOTE.—This section is given as amended by chapter 149, Laws of 1919, approved at election of November 2, 1920, effective under governor's proclamation December 6, 1920.

Sec. 6. It shall be the duty of the legislative assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free common school in each organized district in the state, for at least three months in each year.

Sec. 7. The public free schools of the state shall be open to all children and youth between the ages of six and twenty-one years.

Sec. 8. Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.

Sec. 9. No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the state; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

Sec. 10. The legislative assembly shall provide that all elections for school district officers shall be separate from those elections at which state or county officers are voted for.

Sec. 11. The general control and supervision of the state university and the various other state educational institutions shall be vested in a state board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the governor, state superintendent of public instruction, and attorney general, being members ex-officio; the other eight members thereof shall be appointed by the governor; subject to the confirmation of the senate, under the regulations and restrictions to be provided by law.

Sec. 12. The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the state against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties shall be devoted to the maintenance and perpetuation of these respective institutions.

## ARTICLE XII

### REVENUE AND TAXATION

Section 1. The necessary revenue for the support and maintenance of the state shall be provided by the legislative assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that specially provided for in this article. The legislative assembly may also impose a license tax, both upon persons and upon corporations doing business in the state.



Sec. 1a. The legislative assembly may levy and collect taxes upon incomes of persons, firms and corporations for the purpose of replacing property taxes. These income taxes may be graduated and progressive and shall be distributed to the public schools and to the state government.

NOTE.—This section was enacted as chapter 83, Laws of 1933, approved by the people at the general election of November 6, 1934, and became effective by governor's proclamation, December 6, 1934.

Sec. 1b. No monies paid into the state treasury which are derived from fees, excises or license taxes relating to registration, operation or use of vehicles on the public highways or to fuels used for the propulsion of such vehicles, except fees and charges paid to the board of railroad commissioners of the state of Montana and the public service commission of Montana or its successor or successors by motor carriers pursuant to law, shall be expended for other than cost of administering laws under which such monies are derived, statutory refunds and adjustments provided therein, payment of highway obligations, cost of construction, reconstruction, maintenance and repair of public highways, roads, streets, and bridges, and expenses authorized by the state legislature for dissemination of public information relating to the public highways, roads, streets and bridges of the state of Montana and the use thereof.

NOTE.—This section was enacted as chapter 239, Laws of 1955, approved by the people at the general election of November 6, 1956, and became effective by governor's proclamation, December 28, 1956.

Sec. 2. The property of the United States, the state, counties, cities, towns, school districts, municipal corporations and public libraries shall be exempt from taxation; and such other property as may be used exclusively for the agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit, institutions of purely public charity and evidences of debt secured by mortgages of record upon real or personal property in the state of Montana, may be exempt from taxation.

NOTE.—Section 2 is given as amended by chapter 142, Laws of 1917, adopted at the general election of 1918, effective under governor's proclamation December 28, 1918.

Sec. 3. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim, is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as provided by law.

Sec. 4. The legislative assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law invest in the corporate authorities thereof powers to assess and collect taxes for such purposes.

Sec. 5. Taxes for city, town and school purposes may be levied on all subjects and objects of taxation, but the assessed valuation of any property shall not exceed the valuation of the same property for state and county purposes.

Sec. 6. No county, city, town or other municipal corporation, the inhabitants thereof nor the property therein, shall be released or discharged from their or its proportionate share of state taxes.

Sec. 7. The power to tax corporations or corporate property shall never be relinquished or suspended, and all corporations in this state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on real and personal property owned or used by them and not by this constitution exempted from taxation.

Sec. 8. Private property shall not be taken or sold for the corporate debts of public corporations, but the legislative assembly may provide by law for the funding thereof, and shall provide by law for the payment thereof, including all funded debts and obligations, by assessment and taxation of all private property not exempt from taxation within the limits of the territory over which such corporations respectively have authority.

Sec. 9. The rate of taxation on real and personal property for state purposes, except as hereinafter provided, shall never exceed two and one-half mills on each dollar of valuation; and whenever the taxable property of the state shall amount to six hundred million dollars (\$600,000,000.00) the rate shall never exceed two (2) mills on each dollar of valuation, unless the proposition to increase such rate, specifying the rate proposed and the time during which the rate shall be levied shall have been submitted to the people at the general election and shall have received a majority of all votes cast for and against it at such election; provided, that in addition to the levy for state purposes above provided for, a special levy in addition may be made on live stock for the purpose of paying bounties on wild animals and for stock inspection, protection and indemnity purposes, as may be prescribed by law, and such special levy shall be made and levied annually in amount not exceeding four mills on the dollar by the state board of equalization, as may be provided by law.

NOTE.—Section 9 is given as amended by act approved February 9, 1909 (Laws of 1909, ch. 4), adopted at the general elec-

tion of November, 1910, effective under governor's proclamation December 6, 1910.

Sec. 10. All taxes levied for state purposes shall be paid into the state treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

Sec. 11. Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

Sec. 12. No appropriation shall be made nor any expenditures authorized by the legislative assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the legislative assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rate allowed in section nine (9) of this article, to pay such appropriations or expenditures within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war. No appropriation of public moneys shall be made for a longer term than two years.

Sec. 13. The state treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The governor, or other person or persons authorized by law, shall verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the legislative assembly may require. The legislative assembly may provide by law further regulations for the safe keeping and management of the public funds in the hands of the treasurer; but notwithstanding any such regulations, the treasurer and his sureties shall in all cases be held responsible therefor.

Sec. 14. The governor, state auditor and state treasurer are hereby constituted a state depository board with full power and authority to designate depositories with which all funds in the hands of the state treasurer shall be deposited, and at such rate of interest as may be prescribed by law. When money shall have been deposited under direction of said depository board and in accordance with the law, the treasurer shall not be liable for loss on account of any such deposit occurring through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud or dishonorable conduct. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by the state treasurer or by any other public officer, shall be deemed a felony, and shall be punished as provided for by law and part of such punishment shall be disqualification to hold any public office.

NOTE.—Section 14 is given as amended by act approved March 6, 1907, (chapter 123, Laws of 1907), and adopted at the general election November, 1908, effective under governor's proclamation December 9, 1908.

Sec. 15. The board of county commissioners of each county shall constitute the county board of equalization. The duties of such board shall be to adjust and equalize the valuation of taxable property within their respective counties, and all such adjustments and equalizations may be supervised, reviewed, changed, increased or decreased by the state board of equalization. The state board of equalization shall be composed of three members who shall be appointed by the governor, by and with the advice and consent

of the senate. A majority of the members of the state board of equalization shall constitute a quorum. The term of office of one of the members first appointed shall end on March 1st, 1925, of another first appointed on March 1st, 1927, and of the third first appointed on March 1st, 1929. Each succeeding member shall hold his office for the term of six years, and until his successor shall have been appointed and qualified. In case of a vacancy the person appointed to fill such vacancy shall hold office for the unexpired term in which the vacancy occurs. The qualifications and salaries of the members of the state board of equalization shall be as provided by law, provided, however, that such members shall be so selected that the board will not be composed of more than two persons who are affiliated with the same political party or organization; provided, further, that each member shall devote his entire time to the duties of the office and shall not hold any position of trust or profit, or engage in any occupation or business interfering or inconsistent with his duties as a member of such board, or serve on or under any committee of any political party or organization, or take part, either directly or indirectly, in any political campaign in the interest of any political party or organization or candidate for office. The state board of equalization shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of the county assessors and county boards of equalization; change, increase, or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties, between the different classes of property, and between individual taxpayers. Said state board of equalization shall also have such other powers, and perform such other duties relating to taxation as may be prescribed by law.

NOTE.—Section 15 of article XII, is given as amended by act approved March 22, 1921 (chapter 11, Extra. Sess. Laws of 1921); adopted at the general election of November 7, 1922, effective under govern-

or's proclamation December 14, 1922. The original constitutional provision was before amended. See chapter 47, Laws of 1915, as later approved by the people.

Sec. 16. All property shall be assessed in the manner prescribed by law except as is otherwise provided in this constitution. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this state shall be assessed by the state board of equalization and the same shall be apportioned to the counties, cities, towns, townships and school districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and school districts.

Sec. 17. The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership, but this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed.



Sec. 18. The legislative assembly shall pass all laws necessary to carry out the provisions of this article.

## ARTICLE XIII

## PUBLIC INDEBTEDNESS

Section 1. Neither the state, nor any county, city, town, municipality, nor other subdivision of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or a joint owner with any person, company or corporation, except as to such ownership as may accrue to the state by operation or provision of law.

Sec. 2. The legislative assembly shall not in any manner create any debt except by law which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of such debt within the time limited by such law for the payment thereof; but no debt or liability shall be created which shall singly, or in the aggregate with any existing debt or liability, exceed the sum of one hundred thousand dollars (\$100,000) except in case of war, to repel invasion or suppress insurrection, unless the law authorizing the same shall have been submitted to the people at a general election and shall have received a majority of the votes cast for and against it at such election.

Sec. 3. All moneys borrowed by or on behalf of the state or any county, city, town, municipality or other subdivision of the state, shall be used only for the purpose specified in the law authorizing the loan.

Sec. 4. The state shall not assume the debt, or any part thereof, of any county, city, town or municipal corporation.

Sec. 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars (\$10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law.

Sec. 6. No city, town, township, school district or high school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum (5%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to

the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such city, town, township, school district or high school district shall be void; and each school district and each high school district shall have separate and independent bonding capacities within the limitation of this section; provided, however, that the legislative assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the taxpayers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

NOTE.—Section 6 of article XIII is given as amended by act approved March 7, 1957 (chapter 161, Laws of 1957), adopted at the general election of November 1958, effective under governor's proclamation December 8, 1958. The original constitutional provision was before amended. See chapter 193, Laws of 1949, as later approved by the people.

ARTICLE XIV

MILITARY AFFAIRS

Section 1. The militia of the state of Montana shall consist of all able-bodied male citizens of the state between the ages of eighteen (18) and forty-five (45) years inclusive, except such persons as may be exempted by the laws of the state or of the United States.

Sec. 2. The legislative assembly shall provide by law for the organization, equipment, and discipline of the militia, and shall make rules and regulations for the government of the same. The organization shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Sec. 3. The legislative assembly shall provide by law for maintaining the militia, by appropriations from the treasury of the state.

Sec. 4. The legislative assembly shall provide by law for the safe keeping of the public arms, military records, relics and banners of the state.

Sec. 5. When the governor shall, with the consent of the legislative assembly, be out of the state in time of war, at the head of any military force thereof, he shall continue commander-in-chief of all the military forces of the state.

ARTICLE XV

CORPORATIONS OTHER THAN MUNICIPAL

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

Sec. 2. No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable,

educational, penal or reformatory corporations as are or may be under the control of the state; but the legislative assembly shall provide by general law for the organization of corporations hereafter to be created; provided, that any such laws shall be subject to future repeal or alteration by the legislative assembly.

Sec. 3. The legislative assembly shall have the power to alter, revoke or annul any charter of incorporation existing at the time of the adoption of this constitution, or which may be hereafter incorporated, whenever in its opinion it may be injurious to the citizens of the state.

Sec. 4. The legislative assembly shall provide by law that in all elections for directors or trustees of incorporated companies, every stockholder shall have the right to vote in person or by proxy the number of shares of stock owned by him for as many persons as there are directors or trustees to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit, and such directors or trustees shall not be elected in any other manner.

Sec. 5. All railroads shall be public highways, and all railroad, transportation and express companies shall be common carriers and subject to legislative control, and the legislative assembly shall have the power to regulate and control by law the rates of charges for the transportation of passengers and freight by such companies as common carriers from one point to another in the state. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this state and to connect at the state line with railroads of other states and territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

Sec. 6. No railroad corporation, express or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises, with any other railroad corporation, express or other transportation company, owning or having under its control a parallel or competing line; neither shall it in any manner unite its business or earnings with the business or earnings of any other railroad corporation; nor shall any officer of such railroad, express or other transportation company act as an officer of any other railroad, express, or other transportation company owning or having control of a parallel or competing line.

Sec. 7. All individuals, associations, and corporations shall have equal rights to have persons or property transported on and over any railroad, transportation or express route in this state. No discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by any railroad, or transportation, or express company, between persons or places within this state; but excursion or commutation tickets may be issued and sold at special rates, provided such rates are the same to all persons. No railroad or transportation, or express

company shall be allowed to charge, collect, or receive, under penalties which the legislative assembly shall prescribe, any greater charge or toll for the transportation of freight or passengers to any place or station upon its route or line, than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within this state. No railroad, express, or transportation company, nor any lessee, manager, or other employee thereof, shall give any preference to any individual, association or corporation, in furnishing cars or motive power, or for the transportation of money or other express matter.

Sec. 8. No railroad, express, or other transportation company, in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

Sec. 9. The right of eminent domain shall never be abridged, nor so construed as to prevent the legislative assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals; and the police powers of the state shall never be abridged, or so construed, as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well being of the state.

Sec. 10. No corporation shall issue stocks or bonds, except for labor done, services performed, or money and property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty days notice given in pursuance of law.

Sec. 11. No foreign corporation shall do any business in this state without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served. And no company or corporation formed under the laws of any other country, state or territory, shall have, or be allowed to exercise, or enjoy within this state any greater rights or privileges than those possessed or enjoyed by corporations of the same or similar character created under the laws of the state.

Sec. 12. No street or other railroad shall be constructed within any city or town without the consent of the local authorities having control of the street or highway proposed to be occupied by such street or other railroad.

Sec. 13. The legislative assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the state, a new liability in respect to transactions or considerations already passed.

Sec. 14. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right



to construct and maintain lines of telegraph or telephone within this state, and connect the same with other lines; and the legislative assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph or telephone company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph or telephone company owning or having control of a competing line, or acquire by purchase or otherwise, any other competing line of telegraph or telephone.

Sec. 15. If any railroad, telegraph, telephone, express or other corporation or company organized under any of the laws of this state, shall consolidate, by sale or otherwise, with any railroad, telegraph, telephone, express, or other corporation, organized under any of the laws of any other state or territory of the United States, the same shall not thereby become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the state, in all matters that may arise as if said consolidation had not taken place.

Sec. 16. It shall be unlawful for any person, company or corporation to require of its servants or employees, as a condition of their employment or otherwise, any contract or agreement whereby such persons, company or corporation, shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person, company or corporation, by reason of negligence of such person, company or corporation, or the agents or employees thereof; and such contracts shall be absolutely null and void.

Sec. 17. The legislative assembly shall not pass any law permitting the leasing or alienation of any franchise so as to release or relieve the franchise or property held thereunder from any of the liabilities of the lessor or grantor, or lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

Sec. 18. The term "corporation," as used in this article, shall be held and construed to include all associations and joint stock companies, having or exercising any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

Sec. 19. Dues from private corporations shall be secured by such means as may be prescribed by law.

Sec. 20. No incorporation, stock company, person or association of persons in the state of Montana, shall directly, or indirectly, combine or form what is known as a trust, or make any contract with any person, or persons, corporation, or stock company, foreign or domestic, through their stockholders, trustees, or in any manner whatever, for the purpose of fixing the price, or regulating the production of any article of commerce, or of the product of the soil, for consumption by the people. The legislative assembly shall pass laws for the enforcement thereof by adequate penalties

to the extent, if necessary for that purpose, of the forfeiture of their property and franchises, or in case of foreign corporations, prohibiting them from carrying on business in the state.

## ARTICLE XVI

### COUNTIES—MUNICIPAL CORPORATIONS AND OFFICES

Section 1. The several counties of the territory of Montana, as they shall exist at the time of the admission of the state into the Union, are hereby declared to be the counties of the state until otherwise established or changed by law.

Sec. 2. The legislative assembly shall have no power to remove the county seat of any county, but the same shall be provided for by general law; and no county seat shall be removed unless a majority of the qualified electors of the county, at a general election on a proposition to remove the county seat, shall vote therefor; but no such proposition shall be submitted oftener than once in four years.

#### Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 3. In all cases of the establishment of a new county it shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which it is formed, less the ratable proportion of the value of the county buildings and property of the county or counties from which it is formed; provided, that nothing in this section shall prevent the re-adjustment of county lines between existing counties.

Sec. 4. In each county there shall be elected three county commissioners, whose term of office shall be six years; provided that each county in the state of Montana shall be divided into three commissioner districts, to be designated as commissioner districts, numbers one, two and three, respectively.

The board of county commissioners shall in every county in the state of Montana, at their regular session, on the first Monday in May, 1929, or as soon thereafter as convenient or possible, not exceeding sixty days thereafter, meet and by and under the direction of the district court judge or judges of said county, divide their respective counties into three commissioner districts as compact and equal in population and area as possible, and number them respectively, one, two and three, and when such division has been made, there shall be filed in the office of the county clerk and recorder of such county, a certificate designating the metes and bounds of the boundary lines and limits of each of said commissioners districts, which certificate shall be signed by said judge or judges; provided, also that at the first regular session of any newly organized and created county, the said board of county commissioners, by and under the direction of the district court judge or judges of said county, shall divide such new county into commissioner districts as herein provided.

Upon such division, the board of county commissioners shall assign

its members to such districts in the following manner; each member of the said board then in service shall be assigned to the district in which he is residing or the nearest thereto; the senior member of the board in service to be assigned to the commissioner district No. 1, the next member in seniority to be assigned to commissioner district No. 2, and the junior member of the board to be assigned to commissioner district No. 3; provided, that at the first general election of any newly created and organized county, the commissioner for district No. 1, shall be elected for two years, for No. 2, for four years, and for No. 3, for six years, and biennially thereafter there shall be one commissioner elected to take place of the retiring commissioner, who shall hold his office for six years.

That the board of county commissioners by and under the direction of the district court judge or judges of said county, for the purpose of equalizing in population and area such commissioner districts, may change the boundaries of any or all of the commissioner districts in their respective county, by filing in the office of the county clerk and recorder of such county, a certificate signed by said judge or judges designating by metes and bounds the boundary lines of each of said commissioner districts as changed, and such change in any or all the districts in such county, shall become effective from and after filing of such certificate; provided, however, that the boundaries of no commissioner district shall at any time be changed in such a manner as to affect the term of office of any county commissioner who has been elected, and whose term of office has not expired; and provided, further, that no change in the boundaries of any commissioner district shall be made within six months next preceding a general election.

At the general election to be held in 1930, and thereafter at each general election, the member or members of the board to be elected, shall be selected from the residents and electors of the district or districts in which the vacancy occurs, but the election of such member or members of the board shall be submitted to the entire electorate of the county, provided, however, that no one shall be elected as a member of said board, who has not resided in said district for at least two years next preceding the time when he shall become a candidate for said office.

When a vacancy occurs in the board of county commissioners the judge or judges of the judicial district in which the vacancy occurs, shall appoint someone residing in such commissioner district where the vacancy occurs, to fill the office until the next general election when a commissioner shall be elected to fill the unexpired term.

NOTE.—Section 4 of article XVI, is given as amended by act approved March 7, 1927 (chapter 72, Laws of 1927); adopted at the general election of November 6, 1928; effective under governor's proclamation December 8, 1928. The original constitutional provision was before amended. See Laws of 1891, p. 294 (declared void in *State ex rel. Woods v. Tooker*, 15 M 8, 37 P 840); Laws of 1897, p. 56 (HB 56); and Laws of 1901,

p. 208 (HB 55) (identical to Laws of 1897, p. 56).

#### Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 5. There shall be elected in each county the following county officers who shall possess the qualifications for suffrage prescribed by section 2 of article IX of this constitution and such other qualifications as may be prescribed by law:

One county clerk who shall be clerk of the board of county commissioners and ex-officio recorder; one sheriff; one treasurer, who shall be collector of the taxes, provided, that the county treasurer, shall not be eligible to his office for the succeeding term; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named offices and combine the powers and the duties of the said offices consolidated; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid offices, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order.

NOTE.—Section 5 is given as amended by act approved March 12, 1937 (chapter 93, Laws of 1937), and adopted at the general election November 8, 1938, effective under governor's proclamation Decem-

ber 2, 1938. The original constitutional provision was before amended. See chapter 80, Laws of 1933, as later approved by the people.

Sec. 6. The legislative assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require and their terms of office shall be as prescribed by law, not in any case to exceed two years, except as in this constitution otherwise provided.

#### **Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 7. The legislative assembly may, by general or special law, provide any plan, kind, manner or form of municipal government for counties, or counties and cities and towns, or cities and towns, and whenever deemed necessary or advisable, may abolish city or town government and unite, consolidate or merge cities and towns and county under one municipal government, and any limitations in this constitution notwithstanding, may designate the name, fix and prescribe the number, designation, terms, qual-



ifications, method of appointment, election or removal of the officers thereof, define their duties and fix penalties for the violation thereof, and fix and define boundaries of the territory so governed, and may provide for the discontinuance of such form of government when deemed advisable; provided, however, that no form of government permitted in this section shall be adopted or discontinued until after it is submitted to the qualified electors in the territory affected and by them approved.

NOTE.—Section 7 of article XVI was enacted as chapter 113, Laws of 1921; submitted and adopted at the general election of November 7, 1922, and became a law by virtue of governor's proclamation, December 14, 1922.

Sec. 8. Any county or counties in existence on the first day of January, 1935, under the laws of the state of Montana or which may thereafter be created or established thereunder shall not be abandoned, abolished and/or consolidated either in whole or in part or at all with any other county or counties except by a majority vote of the duly qualified electors in each county proposed to be abandoned, abolished and/or consolidated with any other county or counties expressed at a general or special election held under the laws of said state.

NOTE.—Section 8 was added to article XVI by act approved March 11, 1935 (chapter 102, Laws of 1935), and adopted at the general election November 3, 1936, effective under governor's proclamation December 2, 1936.

## ARTICLE XVII

### PUBLIC LANDS

Section 1. All lands of the state that have been, or that may hereafter be granted to the state by congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the state, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners, as follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three (3) miles of such limits; provided, that any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.

Sec. 2. The lands of the first of said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The lands of the second class may be sold, or the timber thereon may be sold, under

such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The lands of the fourth class shall be sold in alternate lots of not more than five acres each, and not more than one-half of any one tract of such lands shall be sold prior to the year one thousand nine hundred and ten (1910).

Sec. 3. All other public lands may be disposed of in such manner as may be provided by law.

ARTICLE XVIII

LABOR

Section 1. The legislative assembly shall provide for a department of agriculture, and a separate department of labor and industry to be located at the capitol and each of said departments shall be under the control of a separate commissioner who shall be appointed by the governor, subject to the confirmation of the senate. Each commissioner shall hold office for four (4) years, and until his successor is appointed and qualified; the compensation of each commissioner shall be as provided by law. The powers and duties of each commissioner shall be prescribed by the legislature.

NOTE.—Section 1 of article XVIII is given as amended by act approved February 3, 1949 (chapter 6, Laws of 1949); adopted at the general election of November 7, 1950, effective under governor's proclamation December 6, 1950.

Sec. 2. It shall be unlawful for the warden or other officer of any state penitentiary or reformatory institution in the state of Montana, or for any state officer to let by contract to any person or persons or corporation the labor of any convict confined within said institutions.

Sec. 3. It shall be unlawful to employ children under the age of sixteen (16) years of age in underground mines.

NOTE.—Sections three (3) and five (5), of this article, are given as added by act approved March 3, 1903 (chapter 49, Laws of 1903), declared to be in force by proclamation by the governor December 8, 1904.

Sec. 4. A period of eight hours shall constitute a day's work in all industries, occupations, undertakings and employments, except farming and stock raising; provided, however, that the legislative assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided.

NOTE.—Section 4, added by act approved March 3, 1903 (chapter 49, Laws of 1903), is given as amended by act approved March 14, 1935, (chapter 172, Laws of 1935), and adopted at the general election November 3, 1936, effective under governor's proclamation December 2, 1936.

Sec. 5. The legislature by appropriate legislation shall provide for the enforcement of the provisions of this article.

NOTE.—Sections three (3) and five (5), of this article, are given as added by act approved March 3, 1903 (chapter 49, Laws of 1903), declared to be in force by proclamation by the governor December 8, 1904.

## ARTICLE XIX

## MISCELLANEOUS SUBJECTS AND FUTURE AMENDMENTS

Section 1. Members of the legislative assembly and all officers, executive, ministerial or judicial, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to-wit: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid, or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly, or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

Sec. 2. The legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

Sec. 3. The legislative assembly shall enact suitable laws to prevent the destruction by fire from any cause of the grasses and forests upon lands of the state or upon lands of the public domain the control of which may be conferred by congress upon this state, and to otherwise protect the same.

Sec. 4. The legislative assembly shall enact liberal homestead and exemption laws.

Sec. 5. No perpetuities shall be allowed, except for charitable purposes.

Sec. 6. All county officers shall keep their offices at the county seats of their respective counties.

**Cross-Reference**

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 7. In the disposition of the public lands granted by the United States to this state, preference shall always be given to actual settlers thereon, and the legislative assembly shall provide by law for carrying this section into effect.

Sec. 8. The legislative assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the legislative assembly shall at

its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. The legislative assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the state of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of the members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the legislative assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

Sec. 9. Amendments to this constitution may be proposed in either house of the legislative assembly, and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately; provided, however, that not more than three amendments to this constitution shall be submitted at the same election.

#### **Proposed Amendment**

Chapter 315, Laws of 1967, proposes to amend this section to read as follows:

"Section 9. Amendments to this constitution may be proposed in either house of the legislative assembly, and if the same shall be voted for by two-thirds ( $\frac{2}{3}$ ) of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one (1) newspaper in each

county (if such there be) for three (3) months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one (1) be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately; provided, however, that not more



than six (6) amendments to this constitution shall be submitted at the same election."

**Cross-Reference**

Explanatory statement of proposed constitutional amendments to be prepared by attorney general, sec. 37-104.1.

## ARTICLE XX

## SCHEDULE

That no inconvenience may arise by reason of changing from a territorial to a state form of government, it is declared as follows:

Section 1. All laws enacted by the legislative assembly of the territory of Montana and in force at the time the state shall be admitted into the Union and not inconsistent with this constitution or the constitution or laws of the United States of America, shall be and remain in full force as the laws of the state until altered or repealed, or until they expire by their own limitation; provided, that whenever in said laws the words "territory," "Montana territory" or "territory of Montana" occur, the words "state" or "state of Montana" shall be appropriately substituted and read therefor; and, provided further, that the duties which now by law devolve upon probate judges as jury commissioners and in relation to issuing marriage licenses and filing and recording marriage certificates, and the duties as ex-officio clerks of their own courts, shall until otherwise provided by law, devolve upon and be performed by the clerks of district courts, in their respective counties; and provided further, that the duties of probate judges now imposed by law relative to town sites and to the approval of bonds of other county officers shall, until otherwise provided by law, be performed by the district judges in the several counties in their respective districts.

Sec. 2. All lawful orders, judgments and decrees in civil causes, all contracts and claims, and all lawful convictions, judgments and sentences in criminal actions, made and entered, or pronounced by the courts within the territory of Montana, and in force at the time the state shall be admitted into the Union, shall continue and be and remain in full force in the state unaffected in any respect by the change from a territorial to a state form of government, and may be enforced and executed under the laws of the state.

Sec. 3. No crime or criminal offense committed against the laws of the territory of Montana shall abate, or be in any wise affected, by reason of the change from a territorial to a state form of government; but the same shall be deemed and taken to be an offense against the laws of the state, and the appropriate courts of the state shall have jurisdiction over and to hear and determine the same; provided, that this section shall not in any wise be construed to change the law of the statute of limitations, or the due effect or application of the same.

Sec. 4. Except as herein otherwise provided, the word "district" shall be substituted and read in lieu of the word "probate" in the terms "probate court" or "probate judge" whenever the same occur in the laws of

the territory of Montana, and all said laws which by their terms apply to probate courts or probate judges shall, except as in this constitution otherwise provided, upon a change from territorial to state government, be deemed and taken to apply to district courts and district judges; provided, that all laws allowing fees to probate judges are hereby repealed.

Sec. 5. Clerks of district courts, until otherwise provided by law, shall each perform the duties and be entitled to the same fees as now provided by law for clerks of the district courts of the territory, and until otherwise provided by law shall also perform the services and be entitled to fees therefor that are now provided for clerks of probate courts.

Sec. 6. Upon a change from territorial to state government the seals in use by the supreme court and the territorial district courts in and for the several counties respectively, shall pass to and become, until otherwise provided by law, the seals respectively of the supreme court and of the district courts of the state in such counties.

Sec. 7. Prosecutions for criminal offenses against the laws of the territory of Montana, pending at the time the state shall be admitted into the Union shall not abate; but the same shall continue and be prosecuted in the name of the state of Montana, and the title of every such action shall be changed to conform to this provision.

Sec. 8. Parties who, at the time of the admission of the state into the Union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the territory of Montana, shall continue to be so confined or held until discharged therefrom by the proper courts of the state.

Sec. 9. All writs, processes, prosecutions, actions, causes of action, defenses, claims and rights of individuals, associations and bodies corporate existing at the time the state shall be admitted into the Union, shall continue and be respectively executed, proceeded with, determined, enforced and protected under the laws of the state.

Sec. 10. All undertakings, bonds, obligations and recognizances in force at the time the state shall be admitted into the Union, which were executed to the territory of Montana, or any officer thereof in his official capacity, or to any official board for the benefit of the territory of Montana, are hereby respectively assigned and transferred to the state of Montana, to the state officer successor to said territorial officer, or to the official board successor to the aforesaid official board, for the use of the state, as the case may be, and shall be as valid and binding as if executed under state law to the state, or state officer in his official capacity, or official board, for the benefit of the state; and all fines, taxes, penalties and forfeitures due or owing to the territory of Montana or to any county, school district, or municipality therein, at the time the state shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the state, county, school district or municipality, as the case may be, and payment thereof may be enforced under the laws of the state.

Sec. 11. All property, real and personal, and all moneys, credits, claims, demands and choses in action of every kind, belonging to the territory of Montana at the time the state shall be admitted into the Union, are hereby assigned and transferred to, and shall be vested in, and become the property of the state of Montana.

Sec. 12. All obligations of the territory of Montana, existing, in force and unpaid at the time of the admission of the state into the Union are hereby assumed by the state, which shall and will well and truly pay the same.

Sec. 13. All matters, cases and proceedings pending in any probate court in the territory of Montana, at the time the state shall be admitted into the Union, and all official records, files, moneys, and other property of, or pertaining to such court, are hereby transferred to the district court in and for the same county, and such district court shall have full power and jurisdiction to hear, determine and dispose of all such matters, cases and proceedings.

Sec. 14. All actions, cases and proceedings, and matters which shall be pending in the supreme and district courts of Montana territory at the time of the admission of the state into the Union whereof the United States circuit or district court might have had jurisdiction, had such court existed at the commencement of such actions, cases, proceedings and matters, respectively, shall be transferred to said United States circuit and district courts respectively; and all the files, records, indictments and proceedings relating to such actions, cases, proceedings and matters shall be transferred to said United States courts; provided, that no civil action, cause or proceeding to which the United States is not a party, shall be transferred to either of said United States courts except upon written request of one of the parties thereto and in the absence of such request, such case shall be proceeded with in the proper state courts.

Sec. 15. All actions, cases, proceedings and matters pending in the supreme and district courts of the territory of Montana at the time the state shall be admitted into the Union, and all files, records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred, as may be proper to the supreme and district courts of the state, respectively, and all such actions, cases and matters shall be proceeded with in the proper state courts.

Sec. 16. Upon a change from a territorial to a state government, and until otherwise provided by law, the great seal of the territory shall be deemed and taken to be the great seal of the state of Montana.

Sec. 17. All territorial, county and township officers now occupying their respective positions under the laws of the territory of Montana, or of the United States of America, shall continue and remain in their respective official positions and perform the duties thereof as now provided by law after the state is admitted into the Union, and shall be considered state officers until their successors in office shall be duly elected and qualified, as provided by ordinance, notwithstanding any inconsistent provisions in

this constitution, and shall be entitled to the same compensation for their services as is now established by law; provided, that the compensation for justices of the supreme court, governor and secretary of the territory shall be paid by the state of Montana.

## ARTICLE XXI

### MONTANA TRUST AND LEGACY FUND

Section 1. The state of Montana does hereby agree and covenant to accept from any natural person, or persons, from inside or outside the state, gifts, donations, grants and legacies in any amount or value not less than two hundred fifty (\$250.00) dollars each, for the creation of a state permanent revenue fund, for the creation of a state permanent school fund, for the creation of a permanent revenue fund for the university of Montana, and for the benefit of scientific, educational, benevolent and charitable work, subject, however, to all the provisions and limitations of this article.

NOTE.—Article XXI was instituted by act approved March 8, 1923 (chapter 134, Laws of 1923); adopted at the general election of November 4, 1924; effective under governor's proclamation, December 9, 1924.

Sec. 2. The state further agrees and covenants to hold in trust all such contributions (gifts, donations, grants and legacies), to administer the same perpetually, and to apply the net earnings thereof as therein directed, subject, however, to the provisions and limitations of this act.

Sec. 3. The original amounts of all contributions for the state permanent revenue fund, for the state permanent school fund, and for the permanent revenue fund for the university of Montana, shall be added to such funds respectively and become inseparable and inviolable parts thereof. Contributions for other objects may contain a provision to the effect that the net earnings thereof, or part of the net earnings, shall be added to the principal for a certain length of time, or until it has reached a certain amount, or until the happening of a certain event, but such contingent event shall not be more remote than permitted by the laws effecting perpetuities; but no contribution containing such provision as to accumulation shall be accepted by the state until it has been approved by the supervisory board hereinafter constituted, which board shall have power to reject any such contribution that it may deem unwise.

Sec. 4. The state treasurer shall keep a permanent record of all such gifts, donations, grants and legacies, showing the names of the givers, the purpose of the contribution, and other essential facts relating thereto. A duplicate of this record shall be kept by the secretary of state. These records shall be preserved perpetually as a lasting memorial to the givers and their interest in society. The legislative assembly shall from time to time make provision for suitable publicity concerning these benefactors of their fellowmen.

Sec. 5. The same state board and officers that have charge of the investment and administration of the public school fund of the state shall have charge of the investment and administration of all the funds administered under this article. All these funds shall be invested as one common



fund to be known and designated as the Montana trust and legacy fund. In case any contribution is in some other form than cash, such board shall convert it into cash as soon as practicable.

Sec. 6. The public school permanent fund, the other permanent funds originating in land grants from the United States for the support of higher institutions of learning, and for other state institutions, subject to investment, shall be invested as parts of the Montana trust and legacy fund; so also all other funds in the custody of any officer or officers of the state, subject to investment, that the legislative assembly may prescribe. The separate existence and identity of each and every fund invested and administered as a part of the Montana trust and legacy fund shall be strictly maintained.

All investments belonging to the public school permanent fund, except investments in state farm mortgage loans, and all investments belonging to the said land grant funds, shall be transferred to the Montana trust and legacy fund at the full amounts of the unpaid balances of such investments.

NOTES.—Sections 6 to 11 are given as amended by act approved March 15, 1937 (chapter 99, Laws of 1937), and adopted at the general election November 8, 1938, effective by governor's proclamation December 2, 1938.

This section and section 9, article XXI declared unconstitutional and contrary to provisions of enabling act by attorney general. Attorney General's Opinions, Vol. 18, No. 11. But see Attorney General's Opinions, Vol. 20, No. 109.

Sec. 7. The state shall accept for investment and administration as parts of the Montana trust and legacy fund, sinking funds, permanent funds, cumulative funds and trust funds belonging to or in the custody of any of the political subdivisions of the state when requested to do so by the governing board of such political subdivision, subject, however, to such limitations as the legislative assembly may prescribe. The legislative assembly may provide for the investment and administration as a part of the Montana trust and legacy fund of any other fund subject to its power.

NOTE.—See note to section 6 of this article.

Sec. 8. The Montana trust and legacy fund shall be safely and conservatively invested in public securities within the state, as far as possible, including school district, county and municipal bonds, and bonds of the state of Montana; but it may also be partly invested in bonds of the United States, bonds fully guaranteed by the United States as to principal and interest, and federal land bank bonds. All investments shall be limited to safe loan investments bearing a fixed rate of interest. In making long term investments preference shall be given to securities payable on the amortization plan or serially. The legislative assembly may provide additional regulations and limitations for all investments from the Montana trust and legacy fund.

All existing constitutional guarantees against loss or diversion applying to the public school fund, to the funds of the state university and to the

funds of all other state institutions of learning, shall remain in full force and effect.

NOTE.—See note to section 6 of this article.

Sec. 9. On the last day of March, of June, of September and of December of each year, the state treasurer shall apportion all interest collected for the Montana trust and legacy fund during the three month period then terminating to all the separate and integral funds which constitute such fund on the day of such apportionment and which constituted parts of the fund on the first day of the three month period then terminating. The basis of apportionment shall be the average amount of each such fund between the first day and the last day of the three month period.

NOTE.—See notes to section 6 of this article.

Sec. 10. The state treasurer shall keep all deposits of money belonging to the Montana trust and legacy fund separate and distinct from other deposits of money in his keeping.

NOTE.—See note to section 6 of this article.

Sec. 11. All money in any of the separate and integral funds constituting the Montana trust and legacy fund and the interest apportioned therefrom, shall be subject to payment to the person, institution or other entity entitled thereto, without appropriation by the legislative assembly, upon proper authorization as provided by law.

NOTE.—See note to section 6 of this article.

Sec. 12. All the net earnings accruing to the state permanent revenue fund shall annually be added thereto until it has reached the sum of one hundred million dollars (\$100,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths of the net earnings shall be used for the general expenses of the state.

Sec. 13. All the net earnings accruing to the state permanent school fund shall annually be added thereto until it has reached the sum of five hundred million dollars (\$500,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths shall annually be apportioned to the school districts of the state on the basis of the aggregate actual school attendance in each district during the preceding school or calendar year by persons between the ages of six and eighteen years and shall be used exclusively for educational purposes, subject to such regulations and limitations as may be prescribed by law.

Sec. 14. All the net earnings accruing to the permanent revenue fund for the university of Montana shall annually be added thereto until it has reached the sum of one hundred million dollars (\$100,000,000.00). There-

after only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths shall be apportioned to all the educational institutions then comprising the university of Montana, on the basis of the aggregate actual attendance in each institution during the preceding school or calendar year, and may be used for all purposes properly connected with the work of these institutions, subject, however, to such regulations and limitations as may be prescribed by law.

Sec. 15. Whenever the purpose for which a certain contribution was made has been accomplished, or can no longer be ascertained or followed, then the total amount of such fund shall be transferred to the state permanent school fund and become a permanent and inviolable part thereof. All contributions without a specified purpose shall be credited to the state permanent school fund.

Sec. 16. Should the time ever come when any of the three aforesaid permanent funds become so large that no further increase is necessary or desirable, then, in such case, the legislative assembly shall have power to provide for the use of all of the net income from such fund for the purpose for which it was created, or it may use the one twentieth of the annual net income which was to be added to the fund itself for the creation of other permanent revenue funds, or for any other public purpose that it may deem wise; provided, however, that none of the foregoing provisions of this section shall apply to any of these funds until it has reached the specific amount fixed by this article.

Sec. 17. The justices of the supreme court of the state of Montana are hereby made and constituted a supervisory board over the entire administration of all the funds created or authorized by this article and the income therefrom. During January of each year, this board shall review the administration for the preceding year. It shall decide all uncertain or disputed points arising in the administration of the funds whenever requested to do so by a beneficiary, by a state official charged with some part of the administration of the fund, or any other interested party; and it may do so upon its own initiative. It shall be the duty of the supervisory board to do and perform all acts and things that it may deem necessary in order to cause the board and officers having direct charge of these funds to administer the same carefully and wisely in full compliance with the provisions of this article and such further legislation as may be enacted relating thereto. The clerk of the supreme court shall be ex-officio clerk of this supervisory board.

Sec. 18. The legislative assembly shall from time to time enact such further legislation as it may deem necessary to carry into effect the provisions of this article.

Done in open convention at the city of Helena, in the territory of Montana, this seventeenth day of August, in the year of our Lord one thousand eight hundred and eighty-nine.

WILLIAM A. CLARK,<sup>1</sup> president,  
 E. D. AIKEN,<sup>2</sup>  
 WALTER M. BICKFORD,<sup>3</sup>  
 J. F. BRAZELTON,<sup>4</sup>  
 PETER BREEN,<sup>5</sup>  
 DAVID G. BROWNE,<sup>6</sup>  
 SIMON R. BUFORD,<sup>7</sup>  
 WILLIAM MASON BULLARD,<sup>8</sup>  
 WALTER A. BURLEIGH,<sup>9</sup>  
 ALEX F. BURNS,<sup>10</sup>  
 ANDREW J. BURNS,<sup>11</sup>  
 EDWARD BURNS,<sup>12</sup>  
 JAMES E. CALLAWAY,<sup>13</sup>  
 EDWARD CARDWELL,<sup>14</sup>  
 B. PLATT CARPENTER,<sup>15</sup>  
 MILTON CAUBY,<sup>16</sup>  
 WILLIAM A. CHESSMAN,<sup>17</sup>  
 TIMOTHY E. COLLINS,<sup>18</sup>  
 CHARLES E. CONRAD,<sup>19</sup>  
 WALTER COOPER,<sup>20</sup>  
 THOMAS F. COURTNEY,<sup>21</sup>  
 ARTHUR J. CRAVEN,<sup>22</sup>  
 W. W. DIXON,<sup>23</sup>  
 D. M. DURFEE,<sup>23</sup>  
 WILLIAM DYER,<sup>24</sup>  
 GEORGE O. EATON,<sup>25</sup>  
 WILLIAM T. FIELD,  
 J. E. GAYLORD,<sup>26</sup>  
 PARIS GIBSON,<sup>27</sup>  
 WARREN C. GILLETTE,<sup>28</sup>  
 O. F. GODDARD,<sup>74</sup>  
 FIELDING L. GRAVES,<sup>29</sup>  
 R. E. HAMMOND,<sup>30</sup>  
 CHARLES S. HARTMAN,<sup>31</sup>  
 HENRI J. HASKELL,<sup>32</sup>  
 LUKE D. HATCH,<sup>33</sup>  
 LEWIS H. HERSHFELD,<sup>34</sup>  
 RICHARD O. HICKMAN,<sup>35</sup>  
 S. S. HOBSON,<sup>36</sup>  
 JOSEPH HOGAN,<sup>37</sup>  
 THOMAS JOYES,<sup>38</sup>  
 ALLEN R. JOY,<sup>72</sup>  
 J. E. KANOUSE,<sup>71</sup>  
 W. J. KENNEDY,<sup>39</sup>  
 H. KNIPPENBERG,<sup>40</sup>  
 HIRAM KNOWLES,<sup>41</sup>  
 CONRAD KOHRS,<sup>42</sup>  
 C. H. LOUD,<sup>43</sup>  
 LLEWELLYN A. LUCE,<sup>44</sup>  
 MARTIN MAGINNIS,<sup>45</sup>  
 J. E. MARION,<sup>46</sup>  
 CHARLES S. MARSHALL,<sup>47</sup>  
 WM. MAYGER,<sup>48</sup>  
 P. W. McADOW,<sup>49</sup>  
 C. R. MIDDLETON,<sup>50</sup>  
 SAMUEL MITCHELL,<sup>51</sup>  
 WILLIAM MUTH,<sup>52</sup>  
 ALFRED MYERS,<sup>53</sup>  
 WILLIAM PARBERRY,<sup>54</sup>  
 W. R. RAMSDELL,<sup>55</sup>  
 G. J. REEK,<sup>56</sup>  
 JOHN C. ROBINSON,<sup>57</sup>  
 L. ROTWITT,<sup>58</sup>  
 J. E. RICKARDS,<sup>59</sup>  
 FRANCES E. SARGEANT,<sup>60</sup>  
 LEOPOLD F. SCHMIDT,<sup>61</sup>  
 GEORGE W. STAPLETON,<sup>62</sup>  
 JOSEPH K. TOOLE,<sup>63</sup>  
 J. R. TOOLE,<sup>64</sup>  
 CHARLES S. WARREN,<sup>65</sup>  
 WILLIAM H. WATSON,<sup>66</sup>  
 CHAS. M. WEBSTER,<sup>67</sup>  
 H. R. WHITEHILL,<sup>68</sup>  
 GEORGE B. WINSTON,<sup>70</sup>  
 AARON C. WITTER,<sup>69</sup>



## NOTE.—

- |                             |                             |
|-----------------------------|-----------------------------|
| 1—Died March 2, 1925.       | 38—Died June 4, 1893.       |
| 2—Died April 22, 1900.      | 39—Died August 26, 1920.    |
| 3—Died June 27, 1932.       | 40—Died April 16, 1924.     |
| 4—Died December 19, 1917.   | 41—Died April 6, 1911.      |
| 5—Died October 2, 1920.     | 42—Died July 23, 1920.      |
| 6—Died December 10, 1919.   | 43—Died October 23, 1935.   |
| 7—Died January 15, 1905.    | 44—Died January 4, 1903.    |
| 8—Died April 23, 1900.      | 45—Died March 27, 1919.     |
| 9—Died March 7, 1896.       | 46—Died September 27, 1901. |
| 10—Died May 27, 1908.       | 47—Died November 13, 1896.  |
| 11—Died November 26, 1893.  | 48—Died January 19, 1919.   |
| 12—Deceased.                | 49—Died July 12, 1918.      |
| 13—Died August 21, 1905.    | 50—Died May 19, 1926.       |
| 14—Died May 4, 1912.        | 51—Died February 3, 1903.   |
| 15—Died December 24, 1921.  | 52—Died February 15, 1925.  |
| 16—Died February 18, 1926.  | 53—Died June 1, 1920.       |
| 17—Died October 3, 1920.    | 54—Died October 12, 1902.   |
| 18—Died August 30, 1908.    | 55—Died March 13, 1931.     |
| 19—Died November 27, 1902.  | 56—Died July 27, 1897.      |
| 20—Died April 29, 1924.     | 57—Died December 5, 1897.   |
| 21—Died March 4, 1901.      | 58—Died December 6, 1910.   |
| 22—Died April 2, 1925.      | 59—Died December 26, 1927.  |
| 23—Died November 13, 1910.  | 60—Died December 6, 1927.   |
| 24—Died November 17, 1911.  | 61—Died September 24, 1914. |
| 25—Died September 12, 1930. | 62—Died April 25, 1910.     |
| 26—Died July 23, 1920.      | 63—Died March 11, 1929.     |
| 27—Died December 16, 1920.  | 64—Died March 4, 1916.      |
| 28—Died September 8, 1912.  | 65—Died April 13, 1921.     |
| 29—Died December 27, 1913.  | 66—Died August 17, 1894.    |
| 30—Died November 11, 1931.  | 67—Died May 7, 1909.        |
| 31—Died August 3, 1929.     | 68—Died June 11, 1905.      |
| 32—Died March 5, 1921.      | 69—Died January 31, 1891.   |
| 33—Died January 7, 1920.    | 70—Died August 17, 1936.    |
| 34—Died December 4, 1910.   | 71—Died September 21, 1937. |
| 35—Died July 20, 1895.      | 72—Died March 14, 1939.     |
| 36—Died April 26, 1922.     | 73—Died April 29, 1942.     |
| 37—Died May 27, 1900.       | 74—Died September 25, 1943. |

## ORDINANCE NO. I

## FEDERAL RELATIONS

BE IT ORDAINED: First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of the state of Montana shall ever be molested in person or property, on account of his or her mode of religious worship.

Second. That the people inhabiting the said proposed state of Montana, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United

States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States, that the lands belonging to citizens of the United States, residing without the said state of Montana, shall never be taxed a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the said state of Montana on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said state of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, but said last named lands shall be exempt from taxation by said state of Montana so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territory of Montana shall be assumed and paid by said state of Montana.

Fourth. That provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said state of Montana and free from sectarian control.

Fifth. That on behalf of the people of Montana, we in convention assembled, do adopt the constitution of the United States.

Sixth. That the ordinances in this article shall be irrevocable without the consent of the United States and the people of said state of Montana.

Seventh. The state hereby accepts the several grants of land from the United States to the state of Montana, mentioned in an act of congress, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington, to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states." Approved February 22, 1889, upon the terms and conditions therein provided.

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## ORDINANCE II

### ELECTIONS

*Be it Ordained by the Convention assembled to form a Constitution for the State of Montana:*

First. That an election shall be held throughout the territory of Montana on the first Tuesday of October, 1889, for the ratification or rejection of the constitution framed and adopted by this convention.

Second. At said election the constitution framed and adopted by this convention shall be submitted to the people of the territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this territory, shall be qualified to vote for the ratification or rejection thereof.

Third. Said elections shall be held at the several polling places and precincts throughout the territory appointed for the holding of elections under the laws of the territory, and shall be conducted in the manner prescribed by the laws of the territory regulating elections. The boards of county commissioners of the several counties of the territory shall appoint judges and clerks of such election in each of said polling places and precincts in the same manner as is now required by law for the appointment of judges and clerks of general elections in the territory.

Fourth. Each elector voting at said election shall have written or printed upon the ticket he may deposit in the ballot box, the words "for the constitution" or "against the constitution."

Fifth. The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner, if the returns from all of the precincts shall have been received and in the manner prescribed by the laws of the territory of Montana for canvassing the votes at general elections in said territory, and the returns of said election shall be made to the secretary of the territory, who with the governor, and the chief justice of the territory, or any two of them shall constitute a board of canvassers who shall meet at the office of the secretary of the territory on, or before, the thirtieth day after the election, and canvass the votes so cast and declare the result.

Sixth. That on the first Tuesday in October, 1889, there shall be elected by the qualified electors of Montana, a governor, a lieutenant-governor, a secretary of state, an attorney general, a state treasurer, a state auditor, a state superintendent of public instruction, one chief justice, and two associate justices of the supreme court, a judge for each of the judicial districts established by this constitution, a clerk of the supreme court, and a clerk of the district court in and for each county of the state, and the members of the legislative assembly provided for in this constitution. The terms of officers so elected shall begin when the state shall be admitted into the Union and shall end on the first Monday in January, 1893, except as otherwise provided.

Seventh. There shall be elected at the same time one representative in the fifty-first congress of the United States.

Eighth. The votes for the above officers shall be returned and canvassed as is provided by law, and returns shall be made to the secretary of the ter-

ritory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to the clerk of the district court.

Ninth. There shall also be elected at the same time the following county and township officers: Three county commissioners, one clerk of the board of county commissioners and ex-officio recorder, one sheriff, one county treasurer, one county superintendent of common schools, one county surveyor, one county assessor, one coroner, one public administrator, one county attorney, two justices of the peace, and two constables for each township. The terms of office for the above named officers shall begin upon the admission of the state and end upon the first Monday of January, A. D. 1893, except as to county treasurer, whose term shall begin on the first Monday in March succeeding his election, and end on the first Monday of March, A. D. 1893, and also as to county commissioners, whose terms are otherwise provided for in this constitution.

Tenth. The votes for the above county and township officers and for clerk of the district court, shall be returned and canvassed and certificates of election to said officers issued as is now provided by law.

Eleventh. Notice of the election for the adoption or rejection of this constitution, and for state, district, county and township officers shall be given by the clerks of the several boards of county commissioners in the same manner as notice of general elections for delegate to congress and county officers is required to be given by the existing laws of the territory.

Twelfth. That the provisions of this ordinance shall apply only to the election and to the officers elected on the first Tuesday of October, 1889.

NOTE.—Except where otherwise indicated all sections of the constitution were adopted by the constitutional convention,

August 17, 1889, and ratified by the people October 1, 1889.













