

# CONSTITUTION OF THE STATE OF NEW CALIFORNIA<sup>1</sup>

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

## DISTRIBUTION OF POWERS

The powers of the Government of the State of New California shall be divided into three separate<sup>2</sup> departments: the Legislative, the Executive, and Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

## ARTICLE I

### LEGISLATIVE DEPARTMENT

**Sec. 1** – The Legislative power of this State shall be vested in a Senate and Assembly, which shall be designated “the Legislature of the State of New California;” and enacting clause of every law shall be as follows: "The people of the State of New California, represented in Senate and Assembly, do enact as follows."

**Sec. 2** – The sessions of the Legislature shall be annual<sup>3</sup>, and shall commence on the first Monday of January, next ensuing the election of its members, unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.

**Sec. 3** – The members of the Assembly shall be chosen annually<sup>4</sup>, by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November, unless otherwise ordered by the Legislature, and their term of office shall be one<sup>5</sup> year.

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<sup>1</sup> I have re-ordered this Constitution to have the same order as the US Constitution so they can be compared side-by-side.

<sup>2</sup> Add, “but equal” (?)

<sup>3</sup> Biennial? 120 days every even year?

<sup>4</sup> Biennially(?) I think we need to add to this section that the Legislature shall meet every other year for ninety (90) days.

<sup>5</sup> Two (?) Four? We need to specify that the districts should be as close to a square or rectangle as possible with four (4) 90° corners. We need to limit gerrymandering.

**Sec. 4** – Senators and Members of Assembly shall be duly qualified electors in the respective counties and districts which they represent.

**Sec. 5** – Senators shall be chosen for the term of two<sup>6</sup> years, at the same time and places as the Members of the Assembly; and no person shall be a member of the Senate or Assembly, who has not been a citizen of the United States and inhabitant of the State for not less than one year, and of the country<sup>7</sup> or district for which he<sup>8</sup> shall be chosen six months next before his election.

**Sec. 6**<sup>9</sup> – The number of Senators shall not be less than one-third, nor more than one-half, of that of the Members of the Assembly; and at the first session of the Legislature after this Constitution takes effect, the Senators shall be divided by lot as equally as may be, into two classes; the seats of the Senators of the first class shall be vacated at the expiration of the first year, so that one-half shall be chosen annually.<sup>10</sup>

**Sec. 7**<sup>11</sup> – When the number of Senators is increased, they shall be apportioned by lot, so as to keep the two classes as nearly equal in number as possible.

**Sec. 8** – Each house shall choose its own officers and judge of the qualifications, elections, and returns of its own members.

**Sec. 9** – A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

**Sec. 10** – Each house shall determine the rules of its own proceedings, and may, with the concurrence of two thirds of all members elected, expel a member.

**Sec. 11** – Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house, on any question, shall at the desire of any

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<sup>6</sup> Four? Six?

<sup>7</sup> County?

<sup>8</sup> He or she (?)

<sup>9</sup> Do we want to specify the number(s) of Assemblymen and/or Senators?

<sup>10</sup> This needs to be amended to address terms of office.

<sup>11</sup> This Section should probably be deleted.

three members present be entered on the journal.

**Sec. 12** – Members of the Legislature shall, in all cases except treason, any felony, and breach of the peace, be privileged from arrest, and they shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

**Sec. 13** – When vacancies occur in either house, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

**Sec. 14** – The doors of each house shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

**Sec. 15** – Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

**Sec. 16** – Any bill may originate in either house of the Legislature **except for bills enacting or increasing taxation which may only originate in the Assembly**, and all bills passed by one house may be amended in the other.<sup>12</sup>

**Sec. 17** – Every bill which may have passed the Legislature, shall, before it becomes a law, be presented to the Governor. If the Governor approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon the journal, and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house present, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to the Governor, (Sunday excepted,) the same shall be a law in like manner as if the Governor had signed it, unless the Legislature, by adjournment, prevent such return.

**Sec. 18** – The Assembly shall have the sole power of impeachment; and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; and no person shall be convicted, without the concurrence of two-thirds of the members present.

**Sec. 19** – The Governor, Lieutenant Governor, Secretary of State, Comptroller, Treasurer, Attorney General, Surveyor General, Justices of the Supreme Court and Judges of the District **and Appellate** Courts, shall be liable to impeachment for **treason or any felony or**

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<sup>12</sup> The blue text is my suggested addition in Sections 16 and 19.

any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust or profit, under the State; but the party convicted, or acquitted, shall nevertheless, be liable to indictment, trial, and punishment, according to law. All other civil officers shall<sup>13</sup> be tried, for **misdemeanors** crimes committed in office, in such manner as the Legislature may provide. **The Governor, or the Lieutenant Governor when acting as Governor, may also be impeached for failure to ensure the laws are faithfully executed. See Article II, Section 7.**

**Sec. 20** – No Senator, or member of Assembly, shall during the term for which he shall have been elected, be appointed to any civil office of profit, under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

**Sec. 21**<sup>14</sup> – No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit, under this State: provided, that officers in the militia, to which there is attached no annual salary, or local officers and postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed lucrative.

**Sec. 22** – No person who shall be convicted of the embezzlement of the public funds<sup>15</sup> of this State, shall ever be eligible to any office of honor, trust, or profit under this State; and the Legislature shall, as soon as practicable, pass a law providing for the punishment of such embezzlement, ~~or defalcation~~, as a felony.<sup>16</sup>

**Sec. 23** – No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public moneys, shall be attached to and published with the laws at every regular session of the Legislature.

**Sec. 24** – The members of the Legislature shall receive for their services, a compensation to be fixed by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been

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<sup>13</sup> May (?)

<sup>14</sup> This paragraph must be reworded in its entirety.

<sup>15</sup> Embezzlement in general or embezzlement of public funds only?

<sup>16</sup> Do we want Embezzlement of Public Funds to be a straight felony or governed by the Penal Code's distinction between Felony and Misdemeanor. I recommend Embezzlement of Public Funds be a straight Felony.

elected.

**Sec. 25** – Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title; and no law shall be revised or amended by reference to its title **only**; but in such case, the act revised, or section amended shall be re-enacted and published at length.<sup>17</sup>

**Sec. 26** – No divorce shall be granted by the Legislature.<sup>18</sup>

**Sec. 27** – No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

**Sec. 28** – The enumeration of the inhabitants of this State shall be taken, under the direction of the Legislature, in the **first year after Congress shall approve statehood** ~~one thousand eight hundred and fifty-two, and one thousand eight hundred and fifty-five~~, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken, under the direction of the Congress of the United States, ~~in the year one thousand eight hundred and fifty~~, and every subsequent ten years, shall serve as the basis of representation in ~~both houses of the Legislature~~ **Assembly**. **There shall be one Senator for each county.**<sup>19</sup>

**Sec. 29** – The number of ~~Senators and~~ members of Assembly, shall, at first session of the Legislature, ~~holden after the enumerations herein provided for are made, be fixed by the Legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of members of Assembly shall not be less than twenty four fifty-eight, nor more than thirty-six [State Number], until the number of inhabitants within this State shall amount to one hundred thousand; and after that period, at such ratio that the whole number of members of Assembly shall never be less than thirty, nor more than eighty. [State Number].~~<sup>20</sup>

**Sec. 30**<sup>21</sup> – When a congressional, senatorial, or assembly district, shall be composed of two or more counties, it shall not be separated by any county belonging to another district; and

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<sup>17</sup> The blue “only” in Section 25 is my suggested addition.

<sup>18</sup> Do we want this paragraph or language?

<sup>19</sup> My suggested revisions to the 1849 Constitution.

<sup>20</sup> My suggested revisions to the 1849 Constitution.

<sup>21</sup> This paragraph needs to be reworded.

no county shall be divided, in forming a congressional, senatorial, or assembly district.

**Sec. 31**<sup>22</sup>– Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

**Sec. 32** – Dues<sup>23</sup> from corporations shall be secured by such individual liability of the corporators, and other means, as may be prescribed by law.

**Sec. 33** – The term “corporations” as used in this article shall be construed to include all associations and joint-stock companies, having any of the powers or privileges of corporations not possessed by 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.

**Sec. 34** – The Legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed, under general laws, for the deposit of gold, and silver, demand deposit (check), Federal bank note, Federal bond or certificate, ~~but no such association shall make, issue, or put in circulation, any bill, check, ticket, certificate,~~ promissory note, or other paper, or the paper of any bank, intended to circulate as money.<sup>24</sup>

**Sec.35** – The Legislature of this State shall<sup>25</sup> prohibit, by law, any person or persons, association, company, or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

**Sec. 36** – Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for his proportion of all its debts and liabilities.<sup>26</sup>

**Sec. 37** – It shall be the duty of the Legislature to provide for the organization of counties, cities and incorporated villages, and to restrict their power powers of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in

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<sup>22</sup> This paragraph needs to be reworded or deleted.

<sup>23</sup> “Dues” may not be the appropriate term in this context.

<sup>24</sup> My suggested rewording in order to update the language to current banking practices.

<sup>25</sup> “may” (?)

<sup>26</sup> This Section was in the 1849 Constitution. Do we want this in the Constitution or in the appropriate legal code?

assessments and in contracting debts by such municipal corporations.<sup>27</sup>

**Sec. 38** – In all elections by the Legislature, the members thereof shall voto viva voce<sup>28</sup>, and the votes shall be entered on the journal.

## ARTICLE II EXECUTIVE DEPARTMENT

**Sec. 1** – The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be called, “the Governor of the State of New California.”

**Sec. 2** – The Governor shall be elected by the qualified electors, at the time and places of voting for members of Assembly, and shall hold his office two<sup>29</sup> years from the time of his installation, and until his successor shall be qualified.

**Sec. 3** – No person shall be eligible to the office of the Governor, (except at the first election) who has not been a citizen of the United States and a resident of this State two years next preceding the election, and attained the age of twenty-five years at the time of said election.<sup>30</sup>

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

**Sec. 5** – The Governor shall be commander-in-chief of the militia, the army and navy of this State.<sup>31</sup>

**Sec. 6** – He shall transact all executive business with the officers of Government, civil and military, and may require information in writing from the officers of the executive

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<sup>27</sup> The revision to Article I, Section 37 is to comply with current (2025) practices.

<sup>28</sup> “Voto viva voce” means “vote in audible voice.”

<sup>29</sup> Four (?)

<sup>30</sup> Note this Section has three (3) requirements.

<sup>31</sup> The wording of Article II, Section 5 needs to be updated or re-worded.

department upon any subject relating to the duties of their respective offices.

**Sec. 7** – He shall see that the laws are faithfully executed.

**Sec. 8** – When any **elected** office shall, from any cause become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy by **granting a commission appointment**,<sup>32</sup> which shall expire at the end of the next session of the Legislature, or at the next election by the people.

**Sec. 9** – He may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

**Sec. 10** – He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

**Sec. 11** – In case of a disagreement between the two houses, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; provided, it be not beyond the time fixed for the meeting of the next Legislature.

**Sec. 12** – No person shall, while holding any office under the United States, or this State, exercise the office of Governor, except as hereinafter expressly provided.

**Sec. 13** – The Governor shall have the power to grant reprieves and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, and its date, and the date of the pardon or reprieve.

**Sec. 14** – There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The great seal of the State of California."

**Sec. 15** – All grants, **appointments**, and commissions shall be in the name and by the authority of the people of the State of California, sealed with the great seal of the State, signed by the Governor and countersigned by the Secretary of State.

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<sup>32</sup> This clarifies the Governor's power of appointment.

Sec. 16 – A Lieutenant Governor shall be elected at the time and places, and in the same manner as the Governor; and his term of office, and his qualifications of eligibility shall also be the same. He shall be President of the Senate, but shall only have a ~~casting~~ vote therein ~~if the vote in the Senate is tied~~. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

Sec. 17 – In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of any military force thereof, he shall ~~as~~ continue commander-in-chief of the military force of the State.

Sec. 18 – A Secretary of State, a Comptroller, a Treasurer, an Attorney General, and Surveyor General, shall be chosen in the manner provided in this Constitution; and the term of office, and eligibility of each shall be the same as are prescribed for the Governor and Lieutenant Governor.

Sec. 19 – The Secretary of State ~~shall be appointed by the Governor, by and with the advice and consent of the Senate. He~~ shall keep a fair record of the official acts of the legislative and executive departments of the Government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature; and shall perform such other duties as shall be assigned him by law. ~~The Secretary of State is responsible for the integrity of state-wide and national voting, and shall report as soon as possible the results of said elections.~~<sup>33</sup>

Sec. 20 – The Comptroller, Treasurer, Attorney General, and Surveyor General, shall be chosen by joint vote of the two houses of the Legislature, at their first session under this Constitution, and thereafter shall be elected at the same time and places, and in the same manner as the Governor and Lieutenant Governor.

Sec. 21 – The Governor, Lieutenant Governor, Secretary of State, Comptroller, Treasurer, Attorney General, and Surveyor General, shall each at stated times during their continuance in office, receive for their services a compensation, which shall not be increased or diminished during the term for which they shall have been elected.

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<sup>33</sup> I added this sentence to address the events we see today.

ARTICLE III  
JUDICIAL DEPARTMENT

Sec. 1 – The judicial power of this State shall be vested in a Supreme Court, in District Courts, in County Courts, **in Courts of Appeal**<sup>34</sup>, and in Justices of the Peace. The Legislature may also establish such municipal and other inferior courts as may be deemed necessary.<sup>35</sup>

Sec. 2 – The Supreme Court shall consist of a Chief Justice and ~~two~~ **six**<sup>36</sup> Associate Justices, any two of whom shall constitute a quorum.

Sec. 3 – The justices of the Supreme Court shall be elected at the general election, by the qualified electors of the State, and shall hold their office for the term of six years from the first day of January next after their election; provided that the Legislature shall, at its first meeting, elect a Chief Justice and ~~two~~ **six** Associate Justices of the Supreme Court, by joint vote of both houses, and so classify them that one shall go out of office every two years. After the first election, the senior Justice in commission shall be the Chief Justice.

Sec. 4 – The Supreme Court shall have appellate jurisdiction in all cases when the matter in dispute exceeds two hundred dollars<sup>37</sup>, when the legality of any tax, toll, or impost or municipal fine is in question, and in all criminal cases amounting to felony or questions of law alone. And the said Court, and each of the Justices thereof, as well as all ~~district and county~~ **Superior Court and Court of Appeal**<sup>38</sup> judges, shall have power to issue writs of habeas corpus at the instance of any person held in actual custody. They shall also have

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<sup>34</sup> Added because California has added Courts of Appeal to its judicial system since 1849.

<sup>35</sup> “In Courts of Appeal” is added to conform to the court systems in California in 2025. “County Courts” and “Justices of the Peace” may be deleted depending on the court structure chosen by the Legislature.

<sup>36</sup> The number of Justices should be an odd number. Thus, if you wish, this number can be eight (8). Remember, the initial NCS51 Supreme Court will inherit the case load of the existing California Supreme Court and any appeals or Petitions for Certiorari. Be sure the number of Justices in this paragraph agrees with the number in the next paragraph.

<sup>37</sup> Do we want to continue with the amount of \$200 or do we want to delete the dollar amount? Do we want to limit appeals to Felonies? If so, what about Misdemeanor appeals. Misdemeanor appeals first go to the Appellate Department of the Superior Court in that County. In Old California, Misdemeanors can be appealed to the California Supreme Court and, if certiorari is accepted, to the U.S. Supreme Court. If Misdemeanor appeals are limited to that County’s Superior Court or to that Circuit’s Court of Appeals, what would happen if there were inconsistent decisions between Superior Courts or Courts of Appeal. A different decision in Circuit Courts “invites” an appeal to the Supreme Court. Choose carefully.

<sup>38</sup> I updated this to reflect the current and expected structure of the Judicial Department.

power to issue all other writs and process necessary to the exercise of their appellate jurisdiction, and shall be conservators of the peace throughout the State.

Sec. 5 – The State shall be divided by the first Legislature into a convenient number of ~~districts~~ ~~Counties~~ ~~subject to such alteration from time to time as the public good may require~~<sup>39</sup>, for each of which ~~a district judge~~ ~~one or more~~ Superior Court judges<sup>40</sup> shall be appointed by the joint vote of the Legislature, at its first meeting, who shall hold his office for two years from the first day of January next after his election; after which, said judges shall be elected by the qualified electors of their respective districts, at the general election, and shall hold their office for the term of six years.

Sec. 6 – The ~~District County Superior~~ Courts shall have original jurisdiction in law and equity in all civil cases where the amount in dispute exceeds two hundred dollars<sup>41</sup>, exclusive of interest. In all ~~felony~~<sup>42</sup> criminal cases not otherwise provided for, and in all issues of fact joined in the probate courts, their jurisdiction shall be unlimited. ~~Municipal Courts have jurisdiction for all misdemeanor cases and for preliminary hearings in felony cases.~~<sup>43</sup>

Sec. 7 – The Legislature shall provide for the election, by the people, of a Clerk of the Supreme Court, and County Clerks, District Attorneys, Sheriffs, Coroners, and other necessary officers<sup>44</sup>; and shall fix by law their duties and compensation. County Clerks shall be, ex officio, clerks of the ~~District County~~<sup>45</sup> Courts in and for their respective counties.

Sec. 8 – There shall be elected in each of the organized counties of this State, one<sup>46</sup> County Judge, who shall hold his office for four years. He shall hold the County Court, and perform

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<sup>39</sup> Do you want to strike this phrase?

<sup>40</sup> This change reflects the current structure of the Judicial Department.

<sup>41</sup> The Legislature can set any amount in controversy it wants. California currently has a \$25,000 maximum limit for Municipal Courts and as a floor for Superior Courts.

<sup>42</sup> In 1849, there were only “District Courts” in a county. We now have - and need - multiple departments of Superior and Municipal Courts in each county in order to handle the amount of litigation due to the population.

<sup>43</sup> I’ve added this sentence to conform to current practices. The Legislature can set jurisdiction.

<sup>44</sup> The Clerk of the Supreme Court and Coroners should be appointed. Currently, Old California has the office of Coroner in the county Sheriff’s Department.

<sup>45</sup> This change reflects current practices in Old California. This can be reworded.

<sup>46</sup> The actual number should be revisited in order to reflect the current litigation needs. If the number is increased, this whole paragraph needs to be reworded.

the duties of ~~Surrogate, or~~<sup>47</sup> Probate Judge. ~~The County Judge, with two Justices of the Peace, to be designated according to law, shall hold courts of sessions, with such criminal jurisdiction as the Legislature shall prescribe, and he shall perform such other duties as shall be required by law~~

. Sec. 9 – The County Courts shall have such jurisdiction, ~~in cases arising in Justices Courts, and in special cases~~<sup>48</sup>, as the Legislature may prescribe, but shall have no original civil jurisdiction, except in such special cases.

Sec. 10 – The times and places of holding the terms of the Supreme Court, and the general and special terms of the District Courts within the several districts, shall be provided for by law.

Sec. 11 – ~~No judicial officer, except a Justice of the Peace, shall receive, to his own use, any fees or perquisites of office.~~<sup>49</sup>

Sec. 12 – The Legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person.

Sec. 13 – Tribunals for conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference, and agree to abide the judgment, or assent thereto in the presence of such tribunal, in such cases as shall be prescribed by law.<sup>50</sup>

Sec. 14 – The Legislature shall determine the number of ~~Justices of the Peace Superior and Municipal Court judges,~~<sup>51</sup> to be elected in each county, city, and town, ~~and incorporated village~~<sup>52</sup> of the State, and fix by law their powers, duties, and responsibilities. It shall also determine in what cases appeals may be made from ~~Justices Courts to the County Court~~

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<sup>47</sup> This change reflects current practices.

<sup>48</sup> This deletion strikes outdated language and provides the Legislature with maximum discretion.

<sup>49</sup> This deletion is necessary because the US Supreme Court has ruled judges can not derive their personal income from the fines and costs they levy. The remaining paragraphs need to be renumbered.

<sup>50</sup> Old California does not have “Conciliation Courts” at the presents, but this may be something the Legislature should consider. The Legislature may want to mandate that “Conciliation Courts” be

<sup>51</sup> This change updates the language and needs for the appropriate Judges and their status.

<sup>52</sup> This change updates the political organization of the state.

Municipal Courts to Superior Courts and from Superior Court to the Courts of Appeals.<sup>53</sup>.

Sec. 15 – The Justices of the Supreme Court, and Judges of the ~~District Court~~ Courts in the various counties<sup>54</sup>, shall severally, at stated times during their continuance in office, receive for their services a compensation, to be paid out of the treasury, which shall not be increased or diminished during the term for which they shall have been elected. The county Judges shall also severally, at stated times, receive for their services a compensation to be paid out of the county treasury of their respective counties, which shall not be increased or diminished during the term for which they shall have been elected.

Sec. 16 – The Justices of the Supreme Court and ~~District~~ Judges in the County Municipal and Superior Courts<sup>55</sup> shall be ineligible to any other office, during the term for which they shall have been elected.

Sec. 17 – Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law<sup>56</sup>.

Sec. 18 – The style of all process shall be "The People of the State of California;" all the prosecutions shall be conducted in the name and by the authority of the same.

## ARTICLE IV

### MILITIA

Sec. 1 – The Legislature shall provide by law for organising and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

Sec. 2 – Officers of the militia shall be ~~elected, or~~<sup>57</sup> appointed in such a manner as the

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<sup>53</sup> This change reflects the current court organization.

<sup>54</sup> This reflects the current court organization.

<sup>55</sup> This reflects the current court organization.

<sup>56</sup> This paragraph establishes the fact that judges declare the law, but see the Bill of Rights, Section 9, which says the jury declares the law.. If juries declare the law, then results of lawsuits based on identical facts can have different results. The purpose of published laws and published legal opinions is to have consistency in the application of the laws. The Legislature must resolve the inconsistency between this paragraph and the Bill of Rights, Section 9. See Footnote # 85.

<sup>57</sup> We no longer elect military leaders. State military officers receive their offices through appointment by the governor.

Legislature shall from time to time direct, and shall be commissioned by the governor.

Sec. 3 – The governor shall have power to call forth the militia, to execute the laws of the State, to suppress insurrections, ~~and~~ repel invasions ~~and during declared states of emergency~~<sup>58</sup>.

## ARTICLE V

### STATE DEBTS

The Legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly, or in the aggregate, with any previous debts or liabilities, ~~exceed the sum of three hundred thousand dollars,~~<sup>59</sup> except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorised by some law for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the ~~interest of such~~ debt or liability, as it falls due, and also pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper ~~of general circulation~~<sup>60</sup> in each judicial district, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people.<sup>61</sup>

## ARTICLE VI

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<sup>58</sup> This change reflects the change in use of the Militia, now called the National Guard.

<sup>59</sup> The Legislature needs to consider a debt limitation. As worded, this debt limitation prohibits tax anticipation loans as the state of Old California. If tax anticipation loans are prohibited, then there should be both make that prohibition clear and require larger county reserves so the county can make a tax anticipation loan internally. As worded, the courts may opine that County bond issues are prohibited. The Legislature should make its desire express in this paragraph about debt and debt financing

<sup>60</sup> The purpose of adding “of general circulation” is to require publication in a manner that truly reflects how citizens acquire their news.

<sup>61</sup> This paragraph’s use of “submitted to the people” opens the door to statewide plebiscites and referendums.

## EDUCATION

Sec. 1 – The Legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three<sup>62</sup> years, and whose duties shall be prescribed by law, and who shall receive such compensation as the Legislature may direct.

Sec. 2 – The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all land that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A.D. 1841; and all estates of deceased persons who may have died without leaving a will, or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.<sup>63</sup>

Sec. 3 – The Legislature shall provide for a system of **common public** schools, by which a school be kept up and supported in each district at least ~~three months~~<sup>64</sup> in every year, and any school neglecting to keep and support such a school, may be deprived of its proportion of the interest of the public fund during such neglect.

Sec. 4 – The Legislature shall take measures for the protection, improvement, or disposition of such lands as have been, or may hereafter be reserved or granted by the United States, or any person or persons to the State for the use of a University; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said University, with such branches as the public convenience may demand, for the promotion of literature, the arts and sciences, as may be authorised by the terms of such grant. And it shall be the duty of the Legislature, as soon as may be, to provide effectual means for the

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<sup>62</sup> The Legislature needs to specify the term of office.

<sup>63</sup> I think this paragraph should be replaced or enhanced by one or more paragraphs that discuss the University of California system we will inherit. I am open to suggestions.

<sup>64</sup> Nine months? 180 days? We need to add language that says to the effect, “Parents shall control local school boards.” and, “Local school boards shall emphasize reading, writing, arithmetic (math), home economics, and manual arts/shop classes. School districts shall not only prepare appropriate students for post-secondary education, but prepare all students to support themselves with a trade,” or words to that effect. We should also address farming.

improvement and permanent security of the funds of said University.<sup>65</sup>

## ARTICLE VII

### MODE OF AMENDING AND REVISING THE CONSTITUTION

Sec. 1 – Any amendment, or amendments to this Constitution, may be proposed in the Senate or Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendments, shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the Legislature next chosen as aforesaid, such proposed amendment of amendments, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment of amendments to the people, in such manner, and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment of amendments, shall become part of the Constitution.

Sec. 2 – And if, at any time two-thirds of the Senate and Assembly shall think it necessary to revise and change this entire Constitution, they shall recommend to the electors, at the next election for members of the Legislature, to vote for or against the convention ; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the Legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the Legislature.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

Sec. 1 – The first session of the Legislature shall be at the ~~Pueblo de San Jose~~<sup>66</sup>; which place shall be the permanent seat of government, until removed by law: Provided, however, that two-thirds of all members elected to each house of the Legislature shall concur in the passage of such law.

Sec. 2 – Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send, or accept a challenge to fight a duel with deadly

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<sup>65</sup> This paragraph needs to be reworded or deleted.

<sup>66</sup> This is where the Legislature specifies the State Capitol.

weapons, either within this State or out of it; or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

Sec. 3 – Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be, ) that I will support the Constitution of the United States, and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of , according to the best of my ability **so help me God**<sup>67</sup>." And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

Sec. 4 – The Legislature shall establish a system of county and town governments, which shall be as nearly as practicable, throughout the State.

Sec. 5 – The Legislature shall have the power to provide for the election of a board of supervisors in each county; and these supervisors shall jointly and individually perform such duties as may be prescribed by law.

Sec. 6 – All officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct.<sup>68</sup>

Sec. 7 – When the duration of any office is not provided for by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office not fixed by this Constitution ever exceed four years.<sup>69</sup>

Sec. 8 – The fiscal year shall commence on the 1st day of July.

Sec. 9 – Each county, town, city, and incorporated village, shall make provision for the support of its own officers, subject to such restrictions and regulations as the Legislature may prescribe.

Sec. 10 – The credit of the State shall not, in any manner, be given or loaned to or in aid of

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<sup>67</sup> The "so help me God" is added to conform to current oaths of office.

<sup>68</sup>This paragraph is where we add the prohibition of any person holding office in Old California shall be forever prohibited from holding office in New California.

<sup>69</sup> This is where the Constitution should limit the total duration of office (term limits). You should consider the total time anyone can be "in public service" regardless of the office held (i.e., "climbing the ladder" of public office.

any individual, association, or corporation; nor shall the State directly or indirectly become a stockholder in any association or corporation.

Sec. 11 – Suits may be brought against the State in such manner, and in such courts, as shall be directed by law.

Sec. 12 – No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

Sec. 13 – Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; but assessors and collectors of town, county, and State taxes, shall be elected by the qualified electors of the district, county, or town, in which the property taxed for State, county, or town purposes is situated.

Sec. 14 – All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

Sec. 15 – The Legislature shall protect by law, from forced sale, a certain portion of the homestead and other property of all heads of families.

Sec. 16 – No perpetuities shall be allowed, except for eleemosynary purposes.

Sec. 17 – Every person shall be disqualified from holding any office of profit in this State, who shall have been convicted of having given, or offered a bribe, to procure his election or appointment.<sup>70</sup>

Sec. 18 – Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

Sec. 19 – Absence from this State on business of the State, or of the United States, shall not affect the question of residence of any person.

Sec. 20 – A plurality of the votes given at an election shall constitute a choice, where not otherwise directed in this Constitution **except to increase taxes and/or fees, which shall**

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<sup>70</sup> This is the paragraph where we prohibit members of the Communist Party, or who espouse Communist or National Socialist beliefs from holding office.

require a two-thirds ( $\frac{2}{3}$ ) majority.<sup>71</sup>

Sec. 21 – All laws, decrees, regulations, **and** provisions **and** ballots<sup>72</sup>, which from their nature require publication, shall be published in English.

Sec.22 - In support of the Nation’s Second Amendment, citizens over the age of twenty-one (21) years of age who are not otherwise disqualified have the right to carry firearms openly or concealed. No non-citizen has a right to carry a firearm in public. Disqualification of citizens to own and carry firearms shall be a result of a conviction in any jurisdiction of a felony or a crime that would be a felony in this state or any crime of violence on another, including assault, battery, or domestic violence.<sup>73</sup>

## ARTICLE XI

### BOUNDARY

The Boundary of the State of California shall be as follows :

Commencing at this point of intersection of 42d degree of north latitude with the 120th degree of longitude west from Greenwich, and running south on the line of said 120th degree of west longitude until it intersects the 39th degree of north latitude; thence running in a straight line in a south easterly direction to the River Colorado, at a point where it intersects the 35th degree of north latitude; thence down the middle of the channel of said river, to the boundary line between the United States and Mexico, as established by the Treaty of May 30th, 1848; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction, and following the direction of the Pacific Coast to the 42d degree of north latitude, thence on the line of said 42d degree of north latitude to the place of beginning. Also all the islands, harbors, and bays, along adjacent to the Pacific Coast.

### SCHEDULE

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<sup>71</sup> I added language to require a super-majority to increase taxes.

<sup>72</sup> If we want assimilation of lawful immigrants, we need this change.

<sup>73</sup> I have inserted this paragraph because of the often statement by Paul Preston. I am open to wording suggestions.

Sec. 1 – All rights, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith, until altered or repealed by the Legislature, shall continue as if the same had not been adopted.

Sec. 2 – The Legislature shall provide for the removal of all causes which may be pending when this Constitution goes into effect, to courts created by the same.

Sec. 3 – In order that no inconvenience may result to the public service, from the taking effect of this Constitution, no office shall be superseded thereby, nor the laws relative to the duties of the several officers be changed, until the entering into office of the new officers to be appointed under this Constitution.

Sec. 4 – The provisions of this Constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned, shall not be held to apply to officers chosen by the people at the first election, or by the Legislature at its first session.

Sec. 5 – Every citizen of California, declared a legal voter by this Constitution, and every citizen of the United States, a resident of this State on the day of election, shall be entitled to vote at the first general election under this Constitution, and on the question of the adoption thereof.

Sec. 6 – This Constitution shall be submitted to the people, for their ratification or rejection, at the general election to be held on Tuesday, the thirteenth<sup>74</sup> day of November next. The Executive of the existing Government of **New California**<sup>75</sup> is hereby requested to issue a proclamation to the people, directing the Prefects of the several districts, or in case of vacancy, the **Sub-Prefects**, or senior Judge of first Instance, to cause such election to be held, the day aforesaid, in the respective districts. The election shall be conducted in the manner which was prescribed for the election of Delegates to this Convention, except that the **Prefect, Sub-Perfect**,<sup>76</sup> or senior Judge of first Instance ordering such election in each district, shall have power to designate any additional number of places for opening the polls,

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<sup>74</sup> This date will need to be adjusted by the NCS51 Legislature.

<sup>75</sup> This was added because the existing government will not make such proclamation.

<sup>76</sup> These terms are outdated and the NCS Legislature must decide whom they will designate to make these decisions.

and that, in every place of holding the election, a regular poll-list shall be kept by the judges and inspectors of election. It shall also be the duty of these judges and inspectors of election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion, by depositing in the ballot-box a ticket, whereon shall be written, or printed "For the Constitution," or "Against the Constitution," or some such words as will distinctly convey the intention of the voter. These Judges and Inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election, the judges and Inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the **Prefect, Sub-Prefect**, or senior Judge of first Instance, as the case may be, of their respective districts; and said **Prefect, Sub-Prefect**, or senior Judge of first Instance shall transmit one of the same, by the most safe and rapid conveyance, to the Secretary of State. Upon the receipt of said returns, or on the tenth day of December next, if the returns be not sooner received, it shall be the duty of a board of canvassers, to consist of the Secretary of State, one of the Judges of the Superior Court, the **Perfect**, Judge of first Instance, and an **Alcalde of the District of Monterey**, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the Executive will also immediately after ascertaining that the Constitution has been ratified by the people, make proclamation of the fact; and thenceforth this Constitution shall be ordained and established as the Constitution of **New California**.

Sec. 7 – If this Constitution shall be ratified by the people of California, **the Executive of the existing government**<sup>77</sup> is hereby requested immediately after, the same shall be ascertained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the President of the United States, in order that he may lay it before the Congress of the United States.

Sec. 8 – At the general election aforesaid, viz: the **thirteenth day of November**<sup>78</sup> next, there shall be elected a Governor, Lieutenant-Governor, members of the Legislature, and also **two**<sup>79</sup> Members of Congress.

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<sup>77</sup> NCS51 needs to decide whom this will be.

<sup>78</sup> See Footnote #74.

<sup>79</sup> The number of Members of Congress will be the number of Representatives Old California has for the same area and two Senators.

Sec. 9 – If this Constitution shall be ratified by the People of California, the Legislature shall assemble at the seat of government on the **fifteenth day of December next**<sup>80</sup>, and in order to complete the organization of that body, the Senate shall elect a President pro tempore, until the Lieutenant Governor shall be installed into office.

Sec. 10 – On the organization of the Legislature, it shall be the duty of the Secretary of State, to lay before each house, a copy of the abstract made by the board of canvassers, and if called for, the original returns of election, in order that each house may judge of the correctness of the report of said board of canvassers.

Sec. 11 – The Legislature, at its first session, shall elect such officers as may be ordered by this Constitution, to be elected by that body, and within four days after its organization, proceed to elect two Senators to the Congress of the United States. But no law passed by this Legislature shall take effect until signed by the Governor after his installation into office.

Sec. 12 – The Senators and Representatives to the Congress of the United States, elected by the Legislature and People of California, as herein directed, shall be furnished with certified copies of this Constitution, when ratified, which they shall lay before the Congress of the United States, requesting, in the name of the People of California, the admission of the State of California into the American Union.

Sec. 13 – All officers of this State, other than members of the Legislature, shall be installed into office on the **fifteenth day of December next**<sup>81</sup>, or as soon thereafter as practicable.

Sec. 14 – Until the Legislature shall divide the State into counties<sup>82</sup>, and senatorial and assembly districts, as directed by this Constitution, the following shall be the apportionment of the two houses of the Legislature, viz: ~~the districts of San Diego and Los Angeles, shall jointly elect two senators, the districts of Santa Barbara and San Luis Obispo, shall jointly elect one senator, the district of Monterey, one senator, the district of San Jose, one senator, the district of San Francisco, two senators, the district of Sonoma, one senator, the district~~

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<sup>80</sup> See Footnote #74.

<sup>81</sup> See Footnote 74.

<sup>82</sup> NCS51 should affirm the existing Old California counties unless there is a substantial and compelling reason to divide existing counties or otherwise adjust boundaries. In those Counties that are by necessity divided, such as Los Angeles, Alameda, and Sacramento, NCS51 can assess a “provisional boundary” until negotiation defines a specific boundary.

~~of Sacramento, four senators, and the district of San Joaquin, four senators. And the district of San Diego shall elect one member of assembly; the district of Los Angeles, two members of assembly; the district of Santa Barbara, two members of assembly; the district of San Luis Obispo, one member of assembly; the district of Monterey, two members of assembly; the district of San Jose, three members of assembly; district of San Francisco, five members of assembly; the district of Sonoma, two members of assembly ; the district of Sacramento, nine members of assembly; and the district of San Joaquin nine members of assembly.~~<sup>83</sup>

Sec. 15 – Until the Legislature shall otherwise direct, in accordance with the provisions of this Constitution, the salary of the Governor shall be ~~ten thousand dollars per annum~~<sup>84</sup>; and the salary of the Lieutenant-Governor shall be ~~double the pay of a State senator; and the pay of members of the Legislature shall be sixteen dollars per diem, while in attendance, and sixteen dollars for every twenty miles travel by the usual route from their residences, to the place of holding the session of the Legislature, and in returning therefrom.~~ And the Legislature shall fix the salaries of all officers, other than those elected by the people, at the first election.

Sec. 16 – The limitation of the powers of the Legislature, contained in article ~~8th~~ I of this Constitution, shall not extend to the first Legislature elected under the same, which is hereby authorised to negotiate for such amount as may be necessary to pay the expenses of the State Government.

## BILL OF RIGHTS

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

Sec. 2 – All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same, whenever the public good may require it.

Sec. 3 – The right of trial by jury shall be secured to all, and remain inviolate forever; but a

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<sup>83</sup> This allocation of Legislative Members needs to be entirely re-written by the NCS51 Legislature.

<sup>84</sup> Initial salaries need to be set. For Example, Gov. Newsom's 2024 salary was \$ 224,860. Lt. Governor Kounalakis' salary was \$ 168,015; Attorney General Rob Bonta's salary = \$ 194,587,

jury trial may be waived by the parties, in all civil cases, in the manner to be prescribed by law.

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

Sec. 5 – The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Sec. 6 – Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

Sec. 7 – All persons shall be bailable, by sufficient sureties: unless for capital offences, when the proof is evident or the presumption great.

Sec. 8 – No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of militia when in actual service, and the land naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny under the regulation of the Legislature) unless on presentment or indictment of a grand jury; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put jeopardy for the same offence; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Sec. 9 – Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the

fact.<sup>85</sup>

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

Sec. 11 – All laws of a general nature shall have a uniform operation.

Sec. 12 – The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

Sec. 13 – 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 to be prescribed by law.

Sec. 14 – Representation [in the Assembly and for the House of Representatives](#) shall be apportioned according to population. [There shall be one State Senator elected for each County.](#)<sup>86</sup>

Sec. 15 – No person shall be imprisoned for debt, in any civil action on mesne or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

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

Sec. 17 – Foreigners [lawfully admitted to the United States](#)<sup>87</sup> who are, or who may hereafter become bona fide residents if this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native born citizens,

Sec. 18 – Neither slavery, nor involuntary servitude, unless for the punishment of crimes,

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<sup>85</sup> There is an inconsistency between this provision and Article III, Section 17. See Footnote # 56. The Legislature must resolve this inconsistency before sending this Constitution to the People to be voted upon.

<sup>86</sup> This provision uses the 10<sup>th</sup> Amendment to repudiate *Reynolds v Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964)

<sup>87</sup> I added this clause to distinguish lawfully admitted aliens from illegal aliens.

shall ever be tolerated in this State.

Sec. 19 – The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

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

Sec. 21 - **Victim’s Bill of Rights:** In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following rights:

A.

(1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.

(2) To be reasonably protected from the defendant and persons acting on behalf of the defendant.

(3) To have the safety of the victim and the victim’s family considered in fixing the amount of bail and release conditions for the defendant.

(4) To prevent the disclosure of confidential information or records to the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim’s family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.

(5) To refuse an interview, deposition, or discovery request by the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

(6) To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

(7) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

(8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

(9) To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

(10) To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

(11) To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

(12) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

(13) To restitution.

(a) It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing

the losses they suffer.

(b) Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.

(c) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

(14) To the prompt return of property when no longer needed as evidence.

(15) To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

(16) To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.

(17) To be informed of the rights enumerated in paragraphs (1) through (16).

(B)

(1) A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the rights enumerated in subdivision (b) in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request.

(2) This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

(C) The granting of these rights to victims shall not be construed to deny or disparage other

rights possessed by victims. The court in its discretion may extend the right to be heard at sentencing to any person harmed by the defendant. The parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.

(D) As used in this section, a “victim” is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term “victim” also includes the person’s spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term “victim” does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.

(E) In addition to the enumerated rights provided in subdivision (A) of this Section that are personally enforceable by victims as provided in subdivision (B), victims of crime have additional rights that are shared with all of the People of the State of California. These collectively held rights include, but are not limited to, the following:

(1) Right to Safe Schools. All students and staff of public primary, elementary, junior high, and senior high schools, and community colleges, colleges, and universities have the inalienable right to attend campuses which are safe, secure and peaceful.

(2) Right to Truth-in-Evidence. Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code Sections ~~352, 782 or 1103~~. Nothing in this section shall affect any existing statutory or constitutional right of the press.

(3) Public Safety Bail. A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing

of the case. Public safety and the safety of the victim shall be the primary considerations.

(F) Bail:

(1) A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail.

(2) Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter.

(3) When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

(G) Use of Prior Convictions. Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

(H) Truth in Sentencing. Sentences that are individually imposed upon convicted criminal wrongdoers based upon the facts and circumstances surrounding their cases shall be carried out in compliance with the courts' sentencing orders, and shall not be substantially diminished by early release policies intended to alleviate overcrowding in custodial facilities. The legislative branch shall ensure sufficient funding to adequately house inmates for the full terms of their sentences, except for statutorily authorized credits which reduce those sentences.<sup>88</sup>

Sec. 22 – This enumeration of rights shall not be construed to impair or deny others retained by the people.

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<sup>88</sup> This section was lifted in its entirety (and renumbered as necessary) from the current California Constitution, Article 1, Section 28, and named, "The Victim's Bill of Rights." It was enacted by the People because trial court judges denied these rights to victims of crimes throughout the State giving defendants more protections than the people they victimized. I don't want to take a step backwards, so I included these rights here.

## RIGHT OF SUFFRAGE

Sec. 1 – Every ~~white male~~ citizen of the United States, ~~and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the 30th day of May, 1848 of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty days,~~<sup>89</sup> shall be entitled to vote at all elections which are now or hereafter may authorized by law: ~~Provided, nothing herein contained, shall be construed to prevent the Legislature, by a two-thirds concurrent vote, from admitting to the right of suffrage, Indians or the descendants of Indians, in such special cases as such proportion of the legislative body may deem just and proper.~~

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

Sec. 3 – No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.<sup>90</sup>

Sec. 4 – For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of ~~any seminary~~<sup>91</sup> of learning; nor while kept at any ~~almshouse,~~<sup>92</sup> or ~~other asylum,~~<sup>93</sup> at public expense; ~~nor while confined in any public prison.~~<sup>94</sup>

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<sup>89</sup>This language was deleted because it is historically and legally obsolete.

<sup>90</sup>This section needs to be deleted or modified.

<sup>91</sup> Consider changing to “out of state institute of higher learning.” Students can consider registering to vote where they lived with their parents or at their school, but not both..

<sup>92</sup> We no longer have “almshouses” or other state paid residential accommodations for the poor.

<sup>93</sup> This term should be deleted because the current meaning of the term “asylum” is for people deemed by a judge or jury as “insane.”

<sup>94</sup> Despite recent Progressive attempts to give incarcerated felons a right to vote, those confined should not vote. Prohibiting incarcerated felons the right to vote is an extension of the “civil death” movement that began in the 1830s. Prior to that reform movement, the penalty for committing a felony was a sentence of death.

Sec. 5 – No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.<sup>95</sup>

Sec. 6 – All elections by the people shall be by paper ballot personally cast on Election Day unless that voting individual shall have previously applied for and been granted an Absentee Ballot, in which case said Absentee Ballot must be postmarked and received by said Election Day.

\_\_\_\_\_/s/\_\_\_\_\_  
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<sup>95</sup> This paragraph should be reworded.