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DES
P R I S O N S

DE
PHILADELPHIE.

PAR UN EUROPÉEN.
[LA ROCHEFOUCAULT-LIANCOURT]

Seconde Edition,

Augmentée de renseignements ultérieurs sur l'admini-
stration économique de cette institution,

et

de quelques idées

sur les moyens d'abolir promptement en
Europe, la peine de mort.

*„ Si les passions ou la nécessité de la guerre ont
„ enseigné aux hommes à répandre le sang humain,
„ au moins les loix dont le but est d'inspirer la douceur
„ et l'humanité, ne doivent pas multiplier les exemples
„ de cette barbarie.”*

BÉCCARIA, des délits et des peines, chap. de la peine de mort.

A M S T E R D A M

Chez J. VAN GULIK, et W. HOLTROP,
Libraires dans le Kalverstraat.

Juillet An V. de la L. B. (1799.)

D E S
P R I S O N I E R S
 D E
 B R I T A N N I Q U E
 P A R U N B U R G O I S
 L'AVOCAT GÉNÉRAL

Errata.

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—	33	—	14	vendu	—	rendu	
—	55	—	3	des	—	les	
—	57	—	17	ou	—	on	
—	64	—	20	a file	—	azile	
—	75	—	18	le crime	—	ce crime	
—	81	—	18	separation	—	separation	

Denison
Hertzberg
3-21-38
35865

DES PRISONS DE PHILADELPHIE,

Avril 1795.

HOWARD, le bienfaisant philosophe Howard, qui constamment employa sa vie entière en généreux efforts pour le soulagement de l'humanité souffrante, ne sera plus, désormais, grâce à la sagesse de l'État de Pensylvanie, regardé que comme un sage, dont l'esprit s'est montré aussi éclairé dans ses observations, et dans ses conseils, que son ame était reconnue vertueuse et amie des hommes. Sa doctrine, son système, sont soigneusement adoptés à Philadelphie: ils le sont depuis plusieurs années et le succès couronne l'entreprise, ainsi que l'avait annoncé ce bienfaiteur de l'humanité.

Mais comme la jurisprudence criminelle de

A

L'État de Pensylvanie est la base sur laquelle repose ce nouveau système d'administration des prisons, il est nécessaire d'en présenter succinctement l'histoire.

William Penn, lors de la fondation de sa colonie en 1681, arriva avec une charte de Charles II, qui prescrivait l'établissement des loix anglaises. Ce législateur philosophe, dont le premier acte fut la protection indistinctement accordée à toutes les religions, sans préférence pour aucune, n'admit qu'avec répugnance un code pénal qui infligait la peine de mort, presque universellement pour tous les crimes (*). Ami de la justice et de l'humanité, son vœu était d'en étendre l'empire et d'en faire éprouver les bienfaits à sa colonie naissante. L'effusion de sang, ordonnée et exécutée de sang froid, ne pouvait, d'ailleurs, sympathiser avec les principes du chef de la secte qui n'admet pas la légitimité d'une

(*) On lit dans l'histoire de la Police de Londres, publié en 1796 par *Colquhoun*, juge de paix du C^t de Middlesex, que le nombre des crimes pour lesquels la loi angloise prononce la peine de mort, est encor aujourd'hui de 160. L'énumération de ces différens crimes ainsi punis, se trouve dans le chap. 12 de la 5^{me} Edition, et on y voit la peine de mort prononcée pour des délits qui seroient trop punis par cinq ou six mois de détention.

guerre, même défensive. Il rédigea donc un code de loix criminelles beaucoup plus douces et où la privation de la vie était réservée au seul meurtre prémédité, avec faculté au pouvoir exécutif d'annuler le jugement par un pardon absolu, ou par une commutation de peine. Ce code fut désapprouvé par l'Angleterre, et après un long débat entre le roi et le gouverneur de Pensylvanie, les loix criminelles anglaises furent établies dans toute leur étendue et leur rigueur. Cet ordre de choses dura tant que le roi d'Angleterre est resté souverain de l'Amérique septentrionale.

Les habitans de la Pensylvanie rappelés à la liberté, ont du l'être, à la fois, à la douceur de leurs loix pénales primitives. Cependant quoique la nouvelle constitution de cet Etat, faite en 1776, portât l'injonction à la législature *de réformer le code criminel, de rendre les peines moins cruelles et plus proportionnées aux délits qu'elles doivent punir*; la guerre empêcha jusqu'en 1786, que ces bienfaisantes intentions ne fussent suivies. A cette époque seulement, la peine de mort fut réservée aux meurtriers de toute espèce, aux incendiaires, et aux coupables de trahison; le fouet, l'emprisonnement, les travaux publics lui furent substitués pour les autres délits.

Cet adoucissement déjà grand dans le code pénal, n'était cependant qu'un commencement imparfait de la réforme projetée. Quelques principes évidens de justice y étaient encor méconnus. L'évasion de la prison était punie de coups, à la volonté du juge, même de mutilation d'oreilles. L'homme échappé de prison, devenant coupable de l'un des délits que la nouvelle jurisprudence punissait d'une peine légère, l'était de mort selon le code de la jurisprudence ancienne : comme si la loi qui doit toujours supposer à un détenu le désir de s'échapper, ne devait pas réunir toute sa surveillance et tous ses soins pour rendre la prison sûre, rendre même, s'il le faut, les geoliers responsables des évasions, sans-pouvoir jamais faire un nouveau crime à celui qui, en échappant à la captivité, ne fait qu'obéir à un désir naturel, dont personne ne peut méconnaître la violence, ne rompt réellement aucun engagement et ne trompe aucune confiance.

L'expérience de deux ou trois années découvrit promptement aussi les nombreux inconvéniens des travaux publics. Ces criminels chargés de fers, répandus dans les rues, sur les chemins, présentaient plutôt au public, le spectacle du vice que celui de la honte et du mal-

heur. L'impossibilité de les surveiller tous d'assez près, leur laissait souvent les moyens de se livrer à des excès, de s'enivrer, d'entrer dans les maisons, quelquefois d'y voler, souvent de rompre leur chaînes. Tous les prisonniers étaient confondus, quels que fussent leurs crimes et leurs caractères. Le mauvais ne devenait pas meilleur par ce mélange, et le moins mauvais, en devenait pire. L'effroi était dans les villes et dans les campagnes; et loin que les hommes, ainsi punis, en reçussent des moyens d'amendement, les crimes se multipliaient et les prisons devenaient trop petites pour le nombre des condamnés qu'elles devaient contenir.

Plusieurs citoyens respectables de Philadelphie se réunirent à cette époque, dans l'objet de porter quelque soulagement dans les prisons, d'en découvrir les besoins, d'en révéler les abus au gouvernement. Cette société provoqua un nouvel adoucissement dans le code pénal. En 1790, la législature, composée encore d'une seule chambre, abolit les travaux publics, la mutilation, le fouet, l'amende en réparation des crimes commis. Cette loi exige aussi un grand degré d'évidence pour la conviction de quelques crimes, particulièrement pour celui de la destruction d'un enfant, par sa mère, dans





de crimes, l'espoir d'obtenir pardon par une bonne conduite, leur a paru un véhicule non moins propre à amener les condamnés à un véritable amendement.

Quoique les prisons de Philadelphie renferment les personnes qui doivent être jugées par les tribunaux de l'Union, les prisonniers pour dettes de tout l'État de Pensylvanie, les prisonniers pour faits de police, ou détenus en attendant leur jugement, et les prisonniers détenus par l'effet d'une sentence et connus sous le nom de *convicts*, ce n'est qu'à ces derniers que se rapporte ce que je vais dire de ces prisons; plusieurs circonstances différentes ayant retardé jusqu'à ce moment, les arrangemens semblables pour les autres classes de prisonniers.

LA punition doit avoir pour objet l'amendement du coupable et doit lui en fournir les moyens. Cet axiome de morale est la base de la conduite des prisons. Les administrateurs y ont joint cet axiome politique, que la détention d'un condamné étant une réparation faite à la société, celle-ci ne doit pas, autant qu'il se peut, être encore grevée dans ses finances des frais de cette détention.

D'où il résulte, 1^o. que le régime de cette

prison a pour objet d'amener les prisonniers à l'oubli de toutes leurs anciennes habitudes, à la réflexion sur eux-mêmes et par elle à l'amendement.

2°. Que l'injustice, l'arbitraire, les mauvais traitemens sont proscrits de cette maison; car ils révoltent l'ame, ils la remplissent d'irritation et d'amertume, loin de la disposer au repentir.

3°. Que les prisonniers sont constamment employés à des travaux productifs, pour leur faire supporter les frais de la prison, pour ne les pas laisser dans l'inaction, pour leur donner l'habitude du travail et pour leur préparer quelque ressource au moment où leur captivité devra cesser.

Les *convicts*, condamnés à la détention, sont de deux classes; ceux condamnés pour les crimes qui jadis étaient punis par la mort, et leur sentence porte toujours la clause du *solitary confinement* pour une portion du tems de leur détention, à la volonté du juge, mais qui, par la loi, n'en doit pas excéder la moitié, ni être moindre que la douzième partie; l'autre classe est celle des *convicts*, condamnés pour des délits moins considérables, et dont le jugement ne prononce pas la clause du *solitary confinement*.

L'homme condamné au *solitary confinement*, est

dans une espèce de cellule de 8 pieds sur 6 et de 9 d'élévation. Cette cellule, toujours au premier ou au second étage d'un bâtiment voûté et isolé du reste de la prison, est échauffée par un poêle placé dans le corridor qui la précède. Le prisonnier fermé par deux-portes de fer en grille, reçoit le bénéfice de la chaleur, sans pouvoir méfuser du feu dont il ne peut approcher. Sa chambre déjà éclairée par le jour du corridor, l'est encore plus directement par une fenêtre qui y est ouverte. Des commodités lavées par une eau courante à volonté, sont dans chacune. Les précautions pour la salubrité sont entières; ces cellules sont ainsi que le reste de la maison, blanchies deux fois par an; le prisonnier est couché sur un matelas fourni de couvertures. Là, séparé de tous les autres, livré à la solitude, aux réflexions et aux remords, il n'a de communication avec personne; il ne voit même le porte-clef qu'une fois par jour, quand il lui apporte une espèce de *pudding* grossier, fait avec de la farine de mays et de la mélasse. Ce n'est qu'après un certain tems qu'il obtient la permission de lire, s'il la demande, ou de s'occuper aux espèces de travaux compatibles avec son étroite réclusion. Jamais, à moins de maladie, il ne sort, même dans le corridor, tant que dure

et étroit emprisonnement. Les inspecteurs des prisons ont la liberté d'en placer l'époque à leur choix, pourvu que la proportion ordonnée par la sentence, ait lieu dans le cours du tems que doit durer la détention. Ils en placent une grande partie à l'arrivée du *convict* dans les prisons, parce que la portion la plus rigoureuse de la sentence doit dans toute justice, en suivre immédiatement la prononciation, et être par-là, autant rapprochée que possible du crime qui l'a méritée; parce que la sévérité de cette réclusion absolue serait plus horrible encore pour ce prisonnier, s'il avait joui déjà de la mesure de liberté accordée aux autres; parce que, dans cet abandonnement total de tout être vivant, il est plus amené à descendre en lui-même, à réfléchir sur les fautes dont il sent si amèrement la peine; parcequ'enfin le changement absolu de nourriture pour la qualité et pour l'espèce, renouvelant entièrement son sang, l'adoucisant, le rafraîchissant, amollit son ame et la dispose à la douceur qui amène le repentir. Les inspecteurs de cette prison ont une grande foi à la sûreté de cette observation et comptent le régime diététique des prisonniers, au nombre des moyens qui aident le plus efficacement à leur amendement, en changeant leurs idées et leurs dispositions.

Ce système est aussi celui de tous les fondateurs des religions qui commandent les jeûnes, les abstinences; et l'homme qui réfléchira seulement à l'effet que reçoivent ses facultés intellectuelles de l'état de son estomac, applaudira à la confiance qu'ont les inspecteurs de cette prison dans le choix des nourritures qu'ils donnent aux *convicts*. (*)

Les *convicts* dont la sentence ne porte point la clause du *solitary confinement* sont, à leur arrivée, mis avec les autres. Leur vêtement leur est ôté, passé au feu, s'il y a lieu, et le vêtement commun aux prisonniers leur est donné. Ils sont informés des règles de la maison, et interrogés le premier jour sur le travail qu'ils sont capables, ou dans l'intention de faire. Le *constable* qui amène le prisonnier, remet aux inspecteurs un compte succinct de son crime, des circonstances qui peuvent l'aggraver ou l'atténuer, de celles de son procès, des délits

(*) St. Lambert dans son estimable ouvrage qui à pour titre *Catechisme universel*, rappelle que „ dans Athènes un temple „ étoit consacré à *Minerve Hygienne*, et que chez les Egyptiens, chez les gymnosophistes, chez les mages, dans plusieurs écoles de la Grèce on pensoit que l'art de fortifier „ le corps, d'entretenir la santé, de choisir les alimens et les „ exercices, contribuoit à rendre l'esprit facile, actif, et laborieux.” (chap. de la Raison, ou *panthamas*.)

ou crimes dont il a pu être antérieurement accusé, enfin du caractère connu de cet homme dans les tems précédens de sa vie. Ce compte envoyé par la cour qui a prononcé le sentence, met les inspecteurs en état de prendre une opinion première de ce nouvel homme, et des soins plus ou moins surveillans qu'il faut en avoir.

Le travail qui lui est donné, est proportionné à ses forces, et à sa capacité. Il y a dans la maison des métiers de tisserans, des établis et des outils de menuisiers, des boutiques de cordonniers, de tailleurs. Les *convicts* de ces professions peuvent s'y livrer. Les autres sont employés à scier du marbre, à le polir, à faire des copeaux de bois de cèdre, à broyer du plâtre de Paris, à carder de la laine, à battre du chanvre. Les inspecteurs viennent d'ajouter à ces ateliers une manufacture de cloux, susceptible d'employer un grand nombre de personnes et d'un grand profit pour la maison. Les plus faibles, les plus maladroits épluchent de la laine, du crin et de l'étoupe. Chacun est payé à raison de son travail. Le marché est fait entre le concierge et les différens entrepreneurs de la ville pour chaque sorte d'ouvrages et en présence du *convict*. Celui-ci doit payer

sa nourriture, sa part de l'entretien de la maison, de la location des outils. Ce prix, qui fuit nécessairement celui des denrées, est fixé par les inspecteurs, quatre fois l'année; il est aujourd'hui porté à quinze *pence* (*) et l'homme le plus vieux, ne travaillant qu'à éplucher des étoupes peut gagner 21 ou 22 *pence*. Il y a des hommes qui gagnent plus d'un dollar par jour.

Indépendamment de la pension que le travail des *convicts* doit payer, la loi les condamne à acquitter les frais de leur procès, et l'amende qui est toujours prononcée. Ils obtiennent communément la remise de la partie de cette amende qui doit être versée dans le trésor de l'Etat, mais ils sont strictement tenus de payer celle en restitution d'effets qu'ils auraient volés, et les frais du procès. Le comté leur fait l'avance des sommes nécessaires pour ce dernier objet; il est remboursé sur le produit de leur travail, s'il ne l'est, par leur famille ou leurs amis.

Les femmes sont employées à filer, à coudre, à dresfer du chanvre, à blanchir pour la maison. Leur travail n'est pas aussi productif que celui

(*) 18 Sous et demi, de France et 9 sous d'Angleterre.

des hommes; mais il l'est assez pour payer les sept *pence* par jour, somme fixée pour leur pension et peut leur valoir audelà, si elles s'employent tout le jour. Ne travaillant point à des ouvrages de force, leur nourriture est moins considérable.

Le geolier n'est plus ici, comme il l'est trop souvent ailleurs, un exacteur qui met à contribution la foiblesse, la captivité, la misère même des prisonniers. Point de *bien-venue*; point de rétribution pour les faveurs particulières; point d'argent à payer en sortant. Le peu d'appoinemens de certaines places en Europe, semble autoriser celui qui les possède à en étendre les revenus, et il est bien difficile que l'administrateur supérieur qui fait que cet homme n'a matériellement pas de quoi vivre de sa place, ne ferme pas les yeux sur quelques moyens qu'il prend pour compléter sa subsistance. Ces moyens sont des abus qui passent bientôt en usage, bientôt après en droit, et que l'administrateur le plus pur et le plus sévère ne peut plus déraciner. Il perdrait plutôt sa place lui-même, s'il le tentait sérieusement: car les abus acquièrent une force redoutable de l'intérêt commun de tous ceux qui en vivent. Les petites exactions qui quadruplaient et décuplaient même peut-

être, en France, les gages du *fat-de-carré*, avaient tant d'affinité avec les *tours-de-bâton* du fermier-général, ou les *repenans-bons* du ministre des finances, que celui-ci, tout en blâmant souvent, en conversation, ces petites vilenies subalternes, ne les réformait cependant jamais. Ces vices n'appartiennent pas plus à la monarchie qu'à tout autre gouvernement, pas plus à la France qu'à tout autre pays. Sous des noms différens les abus sont partout, dans les mêmes circonstances, à peu près, les mêmes.

Ce genre d'exaction avide, semble aussi devoir appartenir d'avantage aux conditions avilies dans la société. C'est une espèce de vengeance que ceux qui peuvent se passer de l'estime des autres exercent pour le mépris qu'ils en reçoivent. La considération accordée aux hommes est par-tout un premier garant de leur bonne conduite : et il faut être honnête, d'une manière bien distinguée, pour sentir sérieusement le besoin de s'estimer soi-même, quand on est sûr d'être généralement méprisé des autres.

Ces principes qui servent de règles pour la conduite des prisonniers, ont dû diriger les inspecteurs dans le choix du geolier, car il en est le moyen principal. Comme aucun prisonnier n'est jamais mis aux fers, que les coups, les
 mat-

mauvais traitemens, les menâces, les reprochès sont interdits à ceux qui les approchent ; que tout le régime de cette maison de répression, tend à en faire une maison d'amélioration, la place de geolier n'y répugne à la délicatesse d'aucun honnête homme. Les appointemens en sont très-bons, et les gages des sous-ordres sont suffisans pour les faire vivre convenablement : la surveillance journalière des inspecteurs ajoute un degré de certitude à l'intégrité de ces subalternes, et il en résulte, non seulement l'absence de toute exaction envers les prisonniers, mais même l'évidence qu'il n'en peut pas exister.

Chaque prisonnier a un petit livre sur lequel on écrit le marché fait en sa présence par l'entrepreneur étranger pour le prix de son travail, et les gains qu'il fait en conséquence. Les dettes du *convict* pour la poursuite de son procès, pour les amendes auxquelles il a été condamné, pour les outils qu'il peut casser, pour ses vêtemens, enfin pour sa pension, sont aussi journallement inscrits sur ce livre, qui est arrêté tous les trois mois, en présence des inspecteurs. Le double de ces comptes, est porté sur un registre général, ou chaque quartier aussi, le compte de chacun est balancé, et l'argent est versé dans la caisse du trésorier du comté qui devient ainsi le

caissier des prisonniers, pour éviter jusqu'aux soupçons qui pourraient s'élever contre le geolier, s'il restait dépositaire de ces sommes. Celui-ci n'est donc que l'agent entre le prisonnier travaillant, et l'ouvrier, le marchand, ou l'entrepreneur pour qui il travaille. Les prix donnés aux prisonniers, sont ceux donnés à tout autre ouvrier du même genre. Ces prix sont connus; l'inspecteur peut donc en vérifier l'exactitude avec facilité. Quant à la nourriture, le geolier fait les achats des provisions sous les yeux des inspecteurs. Les quantités sont fixées pour chacun, pèlées devant le cuisinier qui lui-même est un *convict*, et qui est payé de sa peine, sur la somme dont chacun contribue par jour, pour la pension. A ces moyens de précaution et d'inspection continuelles, et d'appointemens suffisans du geolier, qui préviennent toute fraude de sa part, se joint plus puissamment encore le moyen d'opinion. L'humanité, la sévère exactitude des inspecteurs est si grande, leur volonté si manifeste, leurs soins si continuels pour que la justice soit la règle constante de conduite envers les prisonniers, que les voler, paraîtrait aux hommes qui les approchent, un manque de confiance plus répréhensible, un crime plus grand que tout autre vol.

Les chambres où couchent les prisonniers sont

au premier étage. Chacune d'elles contient 10 à 12 lits, garnis de matelas, de draps et de couvertures. Chaque prisonnier à le sien. La chambre d'ailleurs, est bien aérée, bien éclairée, de manière toutefois à prévenir toute communication avec l'intérieur. A la pointe du jour, ils en sortent pour n'y rentrer qu'à la nuit close. Alors ils y sont enfermés sans lumière. Dans les grands froids, on leur donne quelques bûches. Le bâtiment étant voûté, ils ne peuvent y mettre le feu. S'ils tentaient de brûler leurs lits, ils s'exposeraient à être étouffés eux mêmes par la fumée, et ceux qui en échapperaient, auraient encore à payer le dégât.

Le matin, avant de commencer le travail, les *condamnés* sont obligés de se laver les mains et le visage. L'entretien de la santé n'est pas le seul bien qui résulte de cette propreté exigée; ces soins que l'on oblige ainsi le prisonnier, communément accoutumé à la malpropreté, à prendre de sa personne, contribuent en quelques degrés, à relever en lui l'opinion, de lui-même. D'ailleurs, les mêmes pratiques exigées imperturbablement aux mêmes heures, concourent aussi à lui donner un esprit d'ordre, auquel on ne peut le ramener par trop de moyens. En été ils se baignent deux fois par mois dans un bassin creusé au milieu

de la cour pour cet usage. Ils sont rasés régulièrement deux fois par semaine, et les frais du barbier qui est aussi un *convict*, font une partie de l'emploi des 15 *pence*, prélevés par jour sur leur travail. Ils changent deux fois de linge par semaine.

Les ateliers pour les gros ouvrages sont dans la cour. Ceux pour les ouvrages moins grossiers sont dans des chambres, sur le même étage que celles où ils couchent, mais dans un autre corps de logis. Les ouvriers n'y sont pas renfermés. Ils y travaillent sous leur surveillance réciproque. Ils ne sont guère plus de cinq ou six dans chacune de ces sortes de boutiques.

Les porte-clefs qui sont au nombre de quatre pour toute la maison, doivent être constamment dans les corridors, dans les cours, parmi les prisonniers. Toute conversation suivie est interdite aux prisonniers entr'eux; ils ont seulement la liberté de se parler pour les besoins mutuels qu'ils peuvent avoir l'un de l'autre dans leurs ouvrages, mais sans jamais s'appeller en criant. Il leur est défendu de parler des causes de leur détention, de se les reprocher, ou même de se les raconter mutuellement. On s'efforce par toutes les voyes, à leur faire oublier leur vie, comme leurs habitudes anciennes. A table le même genre de silence leur est prescrit. Leur déjeuner et leur souper, est un *pudding* de farine de

mays et de mélasse. A dîner, une demi-livre de viande, des légumes, une demi-livre de pain. Leur boisson est de l'eau; jamais, dans aucune circonstance, ils ne boivent de liqueurs fermentées, pas même de la petite bière: l'entrée en est proscrite dans la maison, et cette proscription est religieusement observée. L'espèce d'animation qu'en reçoit l'ouvrier, n'est qu'une vigueur factice et momentanée. Elle ferait pour le prisonnier une irritation qui allumerait son sang, qui empêcherait, par conséquent, l'effet du régime tempérant, par lequel on s'efforce de l'adoucir, de changer pour ainsi dire sa nature. Il trouve sa force dans la nourriture substantielle qu'il prend, et qui, par le même principe, doit être bornée au juste nécessaire. Les rires, les chants, les cris lui sont interdits, non seulement comme disconvenance, mais aussi comme secousse qui ébranlerait ses organes et les sortirait de la quiétude parfaite où l'on veut les tenir, pour en faire, en quelque sorte, un nouvel être. Si le prisonnier contrevient à la règle de la maison, il en est averti une première fois par l'inspecteur, le geolier ou le porte-clef. S'il recommence, il est mis au *solitary confinement*. Ce *solitary confinement* est une punition pour les fautes des prisonniers, que le geolier peut ordonner,

mais dont il doit, sur-le-champ, rendre compte à l'inspecteur. Le paresseux qui ne travaille pas est mis au *solitary confinement*, et cette peine extrêmement sévère, est un tems qu'il faudra encore racheter par le travail, car les frais de la pension courent toujours.

Les quatre porte-clefs sont toute la nuit de service: deux sont dans la salle des inspecteurs, deux dans l'intérieur de la prison. Ceux-ci se promènent continuellement dans les corridors. Au moindre bruit, ils éveillent le geolier et se rassemblent; le geolier entre dans la chambre d'où vient le bruit, et mène dans les terribles cellules, ceux qui en sont coupables. Ces cas sont extrêmement rares. Il n'arrive peut-être pas, quatre fois l'an, que des prisonniers soient punis, et c'est le seul moyen de punition employé dans cette prison. Les geoliers, les porte-clefs sont sans armes, sans chiens; il leur est défendu même de porter une baguette, car ils pourraient dans un moment d'impatience, en frapper un prisonnier, et le système de calme et de justice exacte et froide dont on espère tant de bien, en serait dérangé. Le porte-clef qui s'enivrerait, qui traiterait deux fois un prisonnier avec dureté, perdrait sa place. Les inspecteurs, au contraire, causent avec eux, cherchent à les

connaître, les exhortent, les consolent, leur donnent courage, les réconcilient avec eux-mêmes. Ces conversations ne sont pas fréquentes, elles auraient alors moins d'effet. Leurs visages sont toujours serains, jamais rians. La contenance des prisonniers, n'a rien de cette insolence, de ce morne noir, ou de ce vil abattement que l'on trouve si souvent parmi les nôtres; elle est respectueuse, froide, triste, et calme.

Le traitement pour les femmes *convicts* est le même. Elles sont dans une aile du bâtiment, séparées des hommes; elles y sont réunies aux prisonnières pour autre cause. Le blanchissage est le seul travail qu'elles fassent dans leur couf; dont cependant elles ont l'usage à volonté. Le nombre des prisonnières *convicts* se borne ordinairement à cinq ou six. La rigidité du silence est moins exigée d'elles, elles sont moins surveillées que les hommes, parce qu'elles sont moins nombreuses, et que leur enceinte est toujours fermée sous clef. L'une d'entre elles fait la cuisine. Elles s'entraident dans leurs maladies, mais les maladies sont rares. Le nouveau régime de la maison, a apporté, sur ce point, un changement que le mémoire du médecin indique à lui seul. Jadis il était de deux cens soixante à trois cens

vingt dollars (*) par quartier, et aujourd'hui, dans le même intervalle, il ne s'élève pas à quarante. Cette énorme différence doit s'attribuer à la différence totale de régime. Dans le précédent, le désordre des prisons produisant malpropreté, ivrognerie, *batteries*, occasionait beaucoup de maladies et de blessures; dans le nouveau, ces causes étant détruites, les maladies se bornent à des rhûmes et aux accidens qui arrivent par-tout ailleurs. Deux seuls prisonniers sont morts depuis 4 ans, & ils le font de la petite-vérole. A moins de maladies contagieuses, les prisonniers hommes et femmes restent dans leurs chambres; dans ce dernier cas, ils sont mis dans une chambre à part.

Le dimanche, les prisonniers assistent à un sermon, et à une lecture faite par un ministre que son zèle y amène; n'importe à quelle secte il appartient. La liberté de religion est entière dans la prison, ainsi que dans le reste de la Pensylvanie. Cependant comme presque tous les habitans de l'état sont chrétiens, la lecture est la Bible. Les sermons sont plus moraux que religieux, et appliqués, autant que possible, à la situation de ceux devant qui ils sont prêchés.

(*) Le dollar est égal à 5/8 de monoye de France.

Tous les prisonniers, de quelque classe et de quelque sexe qu'ils soient, y sont amenés, à ceux près, du *solitary confinement*. Aucunei des classes ne se mêle à une autre. Le soir pareil sermon! On donne des livres à ceux qui en désirent, et ils sont d'espèce à leur rappeler leurs devoirs.

Douze inspecteurs sont chargés de l'administration supérieure de la prison. Le remplacement par moitié a lieu tous les six mois, et il est fait par les inspecteurs eux-mêmes. Cette élection si fréquente, a pour principal objet, de ne pas fatiguer trop long-tems les mêmes citoyens par les soins pénibles que ces fonctions exigent. Mais, ils peuvent être continués, s'ils y consentent. Tous s'assemblent chaque semaine, et deux d'entr'eux, sous le titre d'inspecteurs-visiteurs, doivent faire au moins deux fois dans huit jours, la visite des prisons. Il ne se passe pas de journée où ils n'y viennent, ou plusieurs même de ceux qui ne sont pas de service n'y paraissent. La plus part d'eux sont Quakers.

On ne peut méconnaître que c'est à cette société que sont dus principalement, l'établissement et le succès de ce nouveau régime. Un d'entre eux, (*Calder Lunn*), en a presque à lui seul tout l'honneur. La bienfaisante doctrine de Beccaria

et d'Howard a promptement germé dans son cœur tout humain. C'est lui qui a animé ses frères de l'espérance des succès de son exécution. C'est lui qui a provoqué le changement de régime dans les prisons; qui a proposé d'y substituer la douceur, la fermeté et la raison aux fers et aux coups; qui s'est laissé patiemment traiter de visionnaire, sans ralentir ses démarches, dans l'entière confiance du bien que sa persévérance opérerait. C'est lui dont le zèle infatigable, intéressant à sa cause tous ceux qu'il croyait pouvoir l'aider dans sa réussite, a obtenu de la confiance de la législature, ces lois, je ne dis pas seulement de bienfaisance, mais de justice stricte, de politique bien entendue. C'est lui enfin, qui consentant à être réélu inspecteur à chaque nomination, est l'agent principal de cette œuvre respectable de raison et d'humanité.

J'ai dit que les juges avaient été d'une opinion contraire à cet établissement. Un d'eux, plus jeune que les autres; désespérant moins, par conséquent, de l'espèce humaine, s'embrassa avec ardeur ces nouvelles idées; il s'est associé à *Calvert-Lowes* pour toutes les démarches, l'a aidé des conseils qu'un homme versé dans la jurisprudence pouvait seul donner,

et a partagé ainsi le désir, les peines et le mérite de ses succès: ce juge est *William Bradford*, alors *Attorney-général* de Pensylvanie, depuis *Attorney-général* des Etats-Unis, et mort récemment, honoré des regrets et de l'estime générale de ses concitoyens. Il mérite sans doute un hommage particulier que je lui rends avec d'autant plus de plaisir, qu'il n'est pas une censure pour les autres juges: car ceux-ci en se refusant à sanctionner de leur approbation le nouveau système, n'ont été guidés que par le doute sincère que leur expérience leur donnait de son succès, et ils se sont hâtés de l'aider de tous leurs moyens, dès qu'ils en ont vu l'apparence, sans être arrêtés par l'opinion différente qu'ils avaient exprimée; ce qui, certes, fera un mérite peu commun aux yeux de ceux qui connaissent les erreurs ordinaires de l'amour-propre.

Les prisons et leur nouveau régime sont sous la surveillance du comité du maire et des juges nommés pour en approuver le règlement. Ce comité doit visiter la prison une fois chaque quartier. Elle doit l'être aussi souvent encore, par le gouverneur de l'Etat, par les juges de toutes les cours de la ville & du comté, enfin, par les grands jurés. Ces visites ordonnées par la législature dans la vue principale de suivre

les progrès de ces essais , assureraient la bonne tenue de la maison, si l'on pouvait supposer que le zèle des inspecteurs se ralentit. Elles ont été jusqu'ici une récompense de leurs soins et les ont aidés très-utilement, en faisant connaître leurs premiers succès, & leur donnant ainsi les moyens de surmonter tous les obstacles dont sont embarrassés; dans tous les pays du monde, les hommes qui se voient à la destruction des abus. Les inspecteurs ont la faculté de présenter au gouverneur des pétitions pour obtenir la grâce d'un prisonnier; & ils en usent quand ils se croient assurés de l'amendement d'un *convict*, qu'il a amassé quelque argent par son travail, ou qu'il a dans sa famille des moyens de subsister. Bien est qui, après une détention de six mois, sont fortis avec cinquante dollars de gain réel, toutes dépenses prélevées.

Le gouverneur ne refuse jamais la grâce à la demande des inspecteurs; le meurtrier même peut espérer de l'obtenir, mais jamais sans que sa pétition soit signée des parens et amis de la victime de son crime. Les inspecteurs usent peu de cette faculté, pour les *convicts* de cette classe; ils en usent sobrement pour les autres, mais enfin chacun des détenus fait qu'ils peu-

vent en faire usage, & son cœur entretenu par l'espoir, voit un intérêt à devenir meilleur. Qui conduira-t-on jamais sans l'espérance & la crainte ?

Les *convicts* en sortant de la prison reçoivent en argent la balance de leurs comptes, si les inspecteurs supposent qu'ils n'en feront pas un mauvais usage, ou en vêtemens, s'ils n'inspirent pas cette confiance. Quelques-uns en disposent pendant le tems de leur détention pour le maintien de leur famille; et tel est l'admirable effet de ce nouveau régime que sur cent *convicts* qui sortent de la prison, ou par grâce, ou après leur tems expiré, deux n'y sont pas ramenés pour récidive: tandis que dans l'ancien système, les prisons étaient peuplées de criminels d'habitude, qui n'en sortant, comme en Europe, qu'avec quelques vices de plus, n'usaient de leur liberté que pour commettre de nouveaux crimes, et étaient ramenés sans cesse dans les fers, jusqu'à ce qu'ils terminassent leur vie sur l'échafaud.

Le tableau placé à la fin de ce petit ouvrage, & les notes qui le suivent en donneront la preuve. Il eut été à désirer de pouvoir y joindre l'état des crimes & des peines, dans les quatre années qui ont précédé la première réforme du code pénal; mais les registres des

prisons ont été enlevés par le geolier qui alors en avait la garde. Ce n'est d'ailleurs qu'en 1790. que la loi, qui prescrivait un nouvel ordre dans les prisons, à été rendue; & ce n'est qu'en 1791, que réellement elle à commencé à être mise à exécution, par les raisons détaillées ci-après.

Voilà donc en 4 années, au moins deux cents personnes rendues utiles à la société, qui, par l'ancien régime, & d'après le code pénal de presque tous les États de l'Europe, eussent été destinées à en être séparées, ou que les supplices en auraient à jamais arrachées.

Et que l'on ne croie pas que ce changement de système dans la jurisprudence criminelle, & dans le régime des prisons, a apporté trop de douceur au sort des criminels. D'abord, cela fut-il vrai, où ferait le mal, puisque l'utilité de la société en est le résultat? Les loix criminelles d'aucun pays policé, peuvent-elles avoir un autre but? Mais cette opinion que l'on aurait du nouveau système serait même fautive. D'abord la certitude de la punition est entière. L'accusé s'il est convaincu, peut espérer que le temps & sa bonne conduite, abrègeront sa détention, mais il est sûr de subir, jusqu'à cette époque, la rigueur de sa sentence.

Les jurys qui, répugnant à voir un homme condamné à mort, cherchaient souvent moins l'évidence de son crime que le moyen d'en douter, trouvant aujourd'hui la peine plus proportionnée au crime, ayant sous les yeux les résultats de son utilité, craignent moins de trouver un coupable. Le pouvoir exécutif n'a aucun motif de faire grace à un condamné ayant qu'il subisse sa sentence, puisqu'il est sûr de pouvoir la lui accorder, s'il prouve qu'il en est digne. Dans les pays où le pouvoir exécutif, a le droit de faire grace, on sait que ces faveurs ne sont pas toujours accordées aux condamnés les plus dignes d'indulgence, et que comme presque toutes les faveurs, elles sont dues plutôt au crédit de l'intercesseur qu'à un sentiment d'équité de celui qui les accorde. Et fussent elles toujours accordées avec discernement, elles feroient une critique de la loi qui feroit ainsi accusée d'ordonner une peine disproportionnée au delit : enfin cette grace absoud souvent sans commutation de peine, un condamné qui ne méritait peut-être pas le dernier supplice, mais qui peut-être aussi ne peut pas sans danger pour la société, être replacé sur le champ dans son sein : Ici la diminution du tems de detention ordonné par la sentence, étant précédée de toutes les conditions,

sans lesquelles elle ne peut être accordée, est sans inconvénient : et la certitude de la peine inévitable, est déjà un grand frein contre le crime. La régularité de l'ordre dans la prison, la sévérité froide non interrompue, avec laquelle les prisonniers sont traités, est aussi une grande punition pour eux. Ces traitemens arbitraires, ces coups donnés par la brutalité des geoliers, ces fers mis selon leur caprice, les juremens et les invectives à tous les prisonniers, les exactions dont tous ces malheureux étaient victimes, toutes ces horreurs enfin qui révoltent l'humanité et la justice des hommes instruits de l'ancien régime des prisons, tel qu'il existe encore presque partout en Europe, étaient amplement compensés pour les prisonniers par la faméantise absolue dans laquelle on les laissait vivre, par la liberté qu'ils avaient de se livrer à toute espèce d'excès, par les liqueurs qui leur étaient fournies tant qu'ils avaient de l'argent. Il est un nombre considérable de ces habitués de prisons que les traitemens tyranniques et cruels des geoliers n'en dégoutaient pas. Car, quelque ridicule que puisse paraître cette assertion, il est cependant positivement vrai, que beaucoup d'entr'eux en aimaient le séjour pour le désordre où il leur était permis d'y vivre. Aujourd'hui

la prison n'est pour eux que privation de la liberté, obligation au travail, à l'ordre, au silence. Quand en 1786, la loi qui abolissait la peine de mort et qui ordonnait le nouveau régime des prisons, fut faite, deux prisonniers arrêtés pour crimes que l'ancien code pénal punissait de mort, et qui par le nouveau ne l'étaient que de détention, préférèrent d'être jugés selon l'ancienne loi, plutôt que de se soumettre à cette réclusion longue et rigoureuse, à ce *solitary confinement* qu'ils redoutaient avec effroi, sans en avoir cependant éprouvé l'amertume. Ils étaient encore guidés dans ce choix, par l'espérance du pardon qui alors les eût rendu entièrement à la liberté. Un d'eux ne fut pas trompé dans son espérance, l'autre subit la mort. Ceux des prisonniers d'alors, destinés à rester en prison et qui n'avaient vu que des bienfaiteurs et des amis dans les membres du comité, tant que leurs soins s'étaient bornés à leur donner des vêtemens et à leur procurer une meilleure subsistance, n'y virent plus que des ennemis, quand ils furent qu'ils s'occupaient d'écarter de la prison tout espèce de désordre. Tout ce qu'ils purent mettre d'oppositions partielles et combinées à l'établissement du nouveau régime, par astuce, par résistance ouverte, par refus de

travail, par tous les moyens enfin en leur pouvoir; ils l'employèrent; et le premier jour même où le régime commença, tous mettant à exécution le complot fait d'avance, tentèrent de forcer la prison. Quinze s'échappèrent; les autres en furent empêchés. - Le geolier lui-même plus intéressé qu'aucun autre à la continuation des désordres, mit tous les obstacles qu'il put aux efforts faits pour les détruire. Il disputait de crédit aux inspecteurs avec avantage, s'opposait à tout changement, perpétuait les abus, et les exactions, et les inspecteurs ne pouvaient pas obtenir seulement qu'il fut puni. Car comme les préjugés étaient très répandus contre l'innovation projetée, cet homme pouvait trouver des défenseurs, même parmi ceux qui désiraient sincèrement le bien. Mais bientôt après, une circonstance d'une nature grave ouvrit les yeux à ses protecteurs abusés; ils l'abandonnèrent: il fut chassé de sa place, et les obstacles cessèrent. Toutes ces oppositions faites à cette époque, prouvent autant combien le régime d'ordre, de travail et d'exacte sévérité, était redouté des prisonniers, et de leurs gardes, que l'heureux résultat dont j'ai rendu compte, prouve combien il était sagement désiré de ceux qui en ont conçu, provoqué et fait l'établissement. - La ferme

détermination de vaincre tous les obstacles ; les à tous vaincus. Ce moyen est rarement employé sans succès. Aucune tentative d'évasion n'a été faite depuis par les prisonniers : neuf seulement qu'un excès de confiance avait laissé travailler hors l'enceinte de la prison , se sont échappés ; quatre d'entr'eux ont été repris.

Ceux qui de la connaissance de ce fait concluraient , comme *Brisfort* , que les prisonniers se trouvent si bien dans leur prison qu'ils ne tentent pas de la forcer , concluraient très faux (heureusement pour le nouveau régime) ; car le bien-être qui ferait aimer le séjour d'une prison , serait tout aussi condamnable dans la fin de la détention , que la dureté et l'injustice qu'on en a bannies. Les murs sont élevés ; les portes sont fortes , la surveillance est continuelle et grande ; et le prisonnier sait que s'il échappait , il courrait le risque probable d'être repris , et de voir sa détention prolongée ; après un long tems de ce redoutable *solitary confinement* , sans qu'alors il lui restât de probabilité de pardon à aucune époque : il sait que sa bonne conduite abrègera la durée de sa détention ; c'en est assez sans doute pour prévenir les tentatives d'évasion ; car les prisonniers que l'on ne prive jamais de leur couteau , ont pour leurs différens travaux , l'usage des outils

qui pourraient leur en faciliter les moyens, si l'usage n'en était pas surveillé; et presque aucun n'échappe de l'intérieur de la prison.

Il résulte donc de cet essai, qui compte déjà quatre années d'épreuve, 1^o que beaucoup d'hommes jadis perdus pour la société y sont utiles, y rapportent l'habitude & les moyens de travail, qui dans tous les pays du monde sont un grand préservatif contre les crimes. 2^o. Que la dépense de leur détention, n'en est pas une pour la société, puisque l'état qui avant l'établissement de la clouterie n'avait déjà à supporter que les frais des réparations et des gages des employés (1), se trouve aujourd'hui par cette manufacture défrayé de toute dépense, et qu'il y a même un excédant de recette versé dans le trésor, pour être employé à d'autres dépenses publiques. (2)

(1) La totalité de ces dépenses supportées par le Comté pour gages du geolier et des porte-clefs, réparations etc. n'étoient que de mille dollars. Il ne fera pas sans intérêt d'ajouter, que dans le tems où les fers étoient employés dans les prisons, le mémoire du ferrurier s'élevoit à 800 dollars par an (terme moyen) aujourd'hui et depuis quatre ans que les fers sont supprimés, il ne s'éleve annuellement qu'à 40.

(2) Comme cette manufacture est toujours croissante, et que son gain dépend du nombre de bras qui y sont employés, on n'a parlé que généralement du profit qu'elle donne à la maison qui est réel et déjà considérable. II

Le système nouveau est donc arrivé au point d'être plus complet, qu'Howard lui-même n'avoit osé en concevoir l'idée : car il traitait d'illusion l'espoir que le travail des détenus pût satisfaire à la dépense de leur entretien (1), et ceux de Philadelphie emportent toujours en sortant un bénéfice, après avoir payé tous les frais qu'ils ont occasionnés : car il croyoit que les fers et même les coups étaient indispensables pour la punition des prisonniers (2); et les coups, et les fers sont prohibés dans la prison de Philadelphie; et la peine de mort enfin dont encore Howard lui-même pensait que la loi devait punir le bris des maisons, l'incendie, et le meurtre, est réservée aux meurtres au premier degré. Cette peine si souvent prononcée par les législateurs dans le seul embarras de ce qu'ils pourraient faire des criminels à qui on laisserait la vie, n'est en bonne morale et en sage politique possible à

Il est à espérer que l'état particulier de toutes les dépenses, et des produits de chaque branche de travail sera mis au jour par les inspecteurs; ces connaissances de détail sont précieuses, et elles ne peuvent être transmises avec confiance par l'homme étranger à cette administration qui ne veut dire que la vérité.

J'en joins un à cette nouvelle édition, que je me suis procuré depuis l'impression de la première et qui est authentique.

(1) Vol. 1er. page 41.

(2) Vol. 2d. Règle pour les prisons, page 227.

ordonner, que lorsqu'elle est le seul moyen de préserver la société d'un grand danger. En toute autre occasion, elle n'est qu'une cruauté nuisible à son véritable intérêt; cruauté qui d'ailleurs punit moins sévèrement le criminel, que les détentions longues et rigides, que cet exact emprisonnement dans ces cellules écartées, où le criminel, seul avec le souvenir de son crime, traînant dans une inquiétude déchirante, de longs jours d'ennui et de désolation, est isolé de toute la nature, se fait étranger au monde entier.

L'État de Pensylvanie a seul, jusqu'à ce jour, adopté ces changemens dans la jurisprudence criminelle, et dans la conduite des prisons. Beaucoup d'autres États attendaient l'effet de ces essais pour penser à les imiter. — William Bradford avait publié en 1793, un *panphlet*, où rendant compte des motifs et des effets de ces changemens, il prouve l'injustice et l'impropriété de la peine de mort, hors le cas de meurtre prémédité. Cet ouvrage a été envoyé dans toutes les parties de l'Amérique, par la bienfaisante société formée pour secourir les misères des prisons. Il fixe aujourd'hui l'attention de toutes les législatures; des hommes bienfaisans de tous les pays s'unissent

à elles pour prendre des renseignemens sur les détails de ce nouveau système, et sur les moyens d'y procéder. La législature de New-York a rendu, dans la session dernière, une loi pour l'adopter; celle des Jerseys s'en occupe; celle de Massachusetts en est sollicitée par l'Attorney-général de l'État. Le Congrès lui-même vient de nommer un comité pour examiner de quels adoucissemens est susceptible la jurisprudence criminelle de l'Union. D'ici à peu de tems ce système ne peut manquer de devenir général dans toute l'Amérique.

Puisé ce nouveau monde, accoutumé à recevoir de la vieille Europe les lumières dont sa jeunesse et son inexpérience ont besoin, lui servir à son tour de modèle dans la réforme de la jurisprudence criminelle, dans l'établissement d'un système de prison sévère, même terrible; mais juste et humain; car enfin c'est l'Amérique qui en donne le premier exemple. Sans doute les idées qui en ont provoqué, qui en ont facilité l'exécution, sont parties d'Europe; sans doute la cause de l'humanité y a trouvé d'habiles et de zélés défenseurs: mais l'essai de l'abolition, presque totale de la peine de mort, avec les précautions qui pouvaient en assurer les succès, la substitution du régime de la rai-

son, de la justice, à celui des fers, des traitemens cruels et arbitraires, n'y a jamais été tentée. Les obstacles à vaincre pour y réussir, seront certainement énormes en Europe. Mais ils étaient grands ici, ils y étaient crus grands; ils étaient multipliés. Tous les préjugés étaient contraires à cette innovation, et le courage persévérant de quelques zélés citoyens, en a triomphé. 280 prisonniers sont aujourd'hui dans la prison et sont gardés par cinq hommes (*) sans armes, sans bâtons et sans chiens. De ces 280, quatre-vingt-dix seulement sont *convicts* et sont seuls soumis au régime dont je viens de rendre compte: mais les 190 autres n'en sont pas moins sous la garde de ces cinq hommes, et ces quatre-vingt-dix *convicts* sont des criminels convaincus, jugés par jurys, de l'espèce de ceux que quelques années plutôt, les fers, les coups, la mutilation, la crainte de la mort ne pouvaient contenir; qui ne sortaient de la prison, que pour y être promptement ramenés pour de nouveaux crimes; et qui aujourd'hui, assouplis par le régime imperturbable d'ordre, de sévé-

(*) Ou plutôt une femme & 4 hommes; la veuve du dernier geôlier, ayant remplacé son mari, mort en 1793 de la fièvre jaune, & remplissant ses devoirs dans tous les détails aussi bien qu'aucun homme pourrait le faire.

rité, de raison et de régime diététique, se soumettent sans difficulté aux règles qu'ils connaissent, et sont rarement coupables de la plus légère contravention ; Et aujourd'hui les crimes sont beaucoup plus rares dans l'État, la tranquillité est entière dans la ville, preuve bien forte, si elle n'est pas indubitable, de l'avantage du nouveau système, et confirmée encore par les résultats absolument différens dans tous les autres États d'Amérique, où l'ancien n'est pas encore changé.

Je sais bien que la grande facilité qu'a, en Amérique, tout homme laborieux, de devenir propriétaire, doit y rendre les crimes plus rares et d'un caractère différent: je sais bien que dans nos grandes sociétés d'Europe, il existe des crimes et des criminels dont on est assez heureux ici pour n'avoir pas même l'idée; de ces scélérats consommés qui semblent ne respirer que le crime et le vice, et être inaccessibles à tous remords: je sais que le nombre des criminels y est effrayant; que les difficultés pour les emplacements, pour le travail, y sont multipliées; mais le principe de justice exacte, de politique sage qui ne permet d'ordonner la mort que de ceux dont la vie est un continuel danger pour la société, n'en doit pas moins être écouté;

non en lui donnant la large interprétation que jusqu'ici lui ont donné toutes nos jurisprudences, mais en le suivant avec rigidité, en tentant tous les moyens de rendre cette peine de mort inutile pour la société. Je ne suis pas loin de penser que cette peine capitale peut être réduite à punir les coupables de haute trahison au premier degré, les chefs d'un parti, quand la seule idée de leur destruction peut ramener le calme, tandis que la connaissance de leur existence, même dans les fers, alimente et exalte la sédition. Punir de mort, fut-ce pour un meurtre prémédité, est toujours une vengeance, quand le criminel peut être gardé avec sûreté, et que l'on peut se flatter de son amendement. Cette idée, je le sens, révoltera quelques lecteurs; mais si l'on y réfléchit, peut-être s'y accoutumera-t-on, en pensant sur-tout que le meurtre n'est pas généralement un penchant, une habitude, comme le vol, par exemple; que par conséquent l'amendement du coupable peut plutôt être espéré. Quant aux criminels détenus, avec des moyens bien étudiés, bien suivis, avec une constance à toute épreuve, avec une graduation bien réfléchie dans le passage du système actuel à un nouveau, je pense que l'on peut, même en Europe, se flatter du succès.

Quand on demande ici aux promoteurs de ce nouveau système, comment il se peut que les *convicts* aient la contenance et la conduite qu'on leur voit, ils répondent : n'avez vous pas vu à Londres, à Paris, des lions, dans la gueule de qui, les hommes qui les faisaient voir, mettaient leurs têtes. N'avez-vous pas vu à Philadelphie, des panthères que des enfans conduisaient, sans les museler, et qu'ils tenaient dans leurs bras ? Pourquoi donc renoncerait-t-on à apprivoiser des hommes ?..... Ils pourraient dire aussi que le docteur Hunter, d'York en Angleterre, est celui de tous les médecins qui a le plus guéri de fous, et son principal moyen était d'ôter promptement les fers même aux furieux, d'aider par la douceur au retour de leur raison : et rien ne doit choquer dans la comparaison d'un fou avec un criminel. Il ne faut que trouver des hommes qui se dévouent sans relâche à cet important esai : et il s'en trouvera sans nombre en Angleterre : il s'en trouvera en France. Si ce dernier État présentait avant la révolution plus de corruption peut-être que beaucoup d'autres ; si depuis la révolution il a montré plus d'atrocités, d'horreurs qu'à peine on en pouvait imaginer, il a toujours existé, il existe et il existera toujours au milieu de cette corruption et

de ces crimes, des hommes d'une vertu pure, entreprenante, courageuse, prêts à tout faire pour le bien de l'humanité. Les sentimens de philanthropie n'y sont pas seulement dans les livres de ce qu'on appelle les philosophes; ils sont profondément dans le cœur de beaucoup d'hommes, et n'attendent, pour se montrer avec utilité, qu'un sage gouvernement qui leur en donnerait, ou qui leur en laisserait les moyens. Quelques hommages rendus à la vertu, non de ceux obtenus par l'intrigue, ou dérobés par l'hypocrisie, (ceux là ne peuvent que propager le vice,) mais de ceux réellement donnés aux citoyens qu'une bonne conduite en montre dignes, feront connoître beaucoup d'hommes estimables, développeront le germe de vertu dans beaucoup d'autres. Celui qui se sacrifie pour le bien, qui consacre sa vie pour l'humanité, désire encore que l'on sache qu'il n'est pas un homme inutile ni commun; il n'a pas besoin d'autres récompenses, mais il veut celle là; si ce besoin est une faiblesse de la nature humaine, cette faiblesse même est utile à la société, et il est du devoir d'un bon gouvernement de la caresser: car cette récompense décernée à la vertu, lui vaudra encore des imitateurs.

Aucun gouvernement, ne fera sans doute ar-

rété par les dépenses quelles qu'elles soient que pourrait coûter cette réforme de la peine de mort, tant pour l'amélioration des prisons qui en est la base, que pour l'entretien des prisonniers, arrachés ainsi à l'inutilité, et par conséquent à l'injustice du supplice. D'abord cette dernière dépense ne serait que temporaire. Mais fut-elle perpétuelle et considérable, quel gouvernement tant soit peu éclairé, peut aujourd'hui méconnaître, que la conservation des hommes, que l'amendement des coupables est son devoir le plus positif; qu'il est coupable lui-même de tous les crimes que sa négligence, ou son imprévoyance peuvent laisser commettre; que le droit de la société sur lui est impérieux et imprescriptible; et qu'ainsi il n'est ni un moment à perdre, ni une dépense à épargner pour faire à la société réparation des torts que depuis si long-tems elle éprouve à cet égard?

Je ne prétends pas faire ici un traité de jurisprudence criminelle, ni de mœurs publiques, ni même de philanthropie. Je me bornerai seulement à dire, qu'aucune révolution capitale ne peut avoir lieu en Europe pour la diminution des crimes, que par l'éducation, qui, répandue dans toutes les classes, imprimera à la généra-

tion naisfante la connaissance de ses devoirs & la fournira des moyens de s'y maintenir. Le plus grand nombre des criminels dans tous les États de l'Europe se trouvent dans la classe la plus privée de l'éducation d'instruction, & de celle de l'exemple, aussi puisfante au moins que la première ; et l'Ecosse, où l'éducation est plus répandue que dans aucun autre pays de l'Europe, est de tous, celui où il se commet le moins de crimes. Les tables qui se trouvent dans l'ouvrage d'Howard attestent que dans ce royaume, peuplé d'environ 1,600,000 âmes, 58 accusés, seulement, ont été condamnés à mort dans l'espace de 20 ans ; ce qui ne fait pas tout-à-fait trois par an ; tandis que dans le même cours de tems & dans le circuit de Norfolk en Angleterre, composé de six provinces, dont on ne peut estimer la population à plus de 800 mille âmes, 434 ont été condamnés à mort indépendamment de huit cent soixante quatorze condamnés à la déportation ; ce qui fait un terme moyen par an, de soixante-six grands criminels.

Dans les états de la Nouvelle-Angleterre, où, à celui de Rhode-Island près, les lois et les mœurs concourent si efficacement à rendre l'éducation commune à toutes les classes de citoyens, il y a moins, beaucoup moins de

crimes, comparativement à la population, que dans aucun autre État de l'Amérique, où, le système de jurisprudence et de prison n'est pas changé; quoiqu'il y en ait encore plus qu'en Pensylvanie, où l'éducation est beaucoup moins mise à la portée de toutes les classes, mais où le code pénal est plus doux; et le régime des prisons plus exact, plus sévère et plus juste. Et dans ce dernier État, sur dix *convicts* plus de sept sont étrangers, sur-tout Irlandais, qui n'apportant de chez eux, que pauvreté, ignorance, habitude d'oisiveté, apportent ainsi le germe de tous les crimes: germe, qui se développe toutefois moins ici qu'ailleurs, parce que le travail y étant à un très-haut prix, et la possibilité de devenir propriétaire très-facile, un homme, pour peu qu'il soit laborieux, ne sent pas le besoin, et qu'aportat-il une inclination prononcée pour le crime, il est rappelé par l'aisance à l'amour de l'ordre, et à une conduite régulière: les exemples de cette espèce sont multipliés ici. Et en Pensylvanie, les criminels indigènes sont, comme par-tout ailleurs, de la classe la plus dénuée d'éducation (*).

(*) SAMUEL CRAMPE, dans un *essai sur les meilleurs moyens de fournir du travail au peuple*, mémoire qui à remporté en 1793, le prix de l'Académie royale d'Irlande, obligé de convenir que le peuple irlandais est enclin à la paresse, à l'ivrognerie, au tumulte, et que les vols sont beaucoup

Ces faits sont vrais, authentiques; peuvent-ils laisser douter de la route à suivre par-tout, pour la diminution des crimes; et des succès qu'on peut en espérer?

J'ai dit que le nouveau régime des prisons à Philadelphie ne s'étendait encore que sur les *convicts*; des obstacles dont le détail ne trouve pas sa place ici, ont empêché jusqu'à-présent de l'étendre aux autres classes de prisonniers. Sans doute ces obstacles seront promptement levés, ils présentent moins de difficultés qu'aucuns de ceux dont on a si heureusement triomphés, et les vices de l'ancien régime auxquels ces prisonniers sont actuellement livrés, deviennent plus hideux encore à côté du régime vraiment admirable qui gouverne aujourd'hui les *convicts*. En attendant, ces prisonniers séparés par classe; fe-

plus commun en Irlande, qu'en Angleterre, trouve les causes de ces défauts du caractère du peuple Irlandais, dans l'oppression sous laquelle il gémit depuis les siècles les plus récents, et qui, quoique sous d'autres formes, ne pèse pas moins aujourd'hui sur lui, et dans le peu de protection qu'il reçoit des loix. Il prouve que cette oppression, produit en lui, la paresse, l'apathie &c. et le conduisent à une pauvreté extrême; cause plus prochaine, mais non pas plus réelle des défauts qui lui sont reprochés. Il met aussi au premier rang de ces causes malfaisantes, le manque total d'éducation pour le peuple Irlandais.

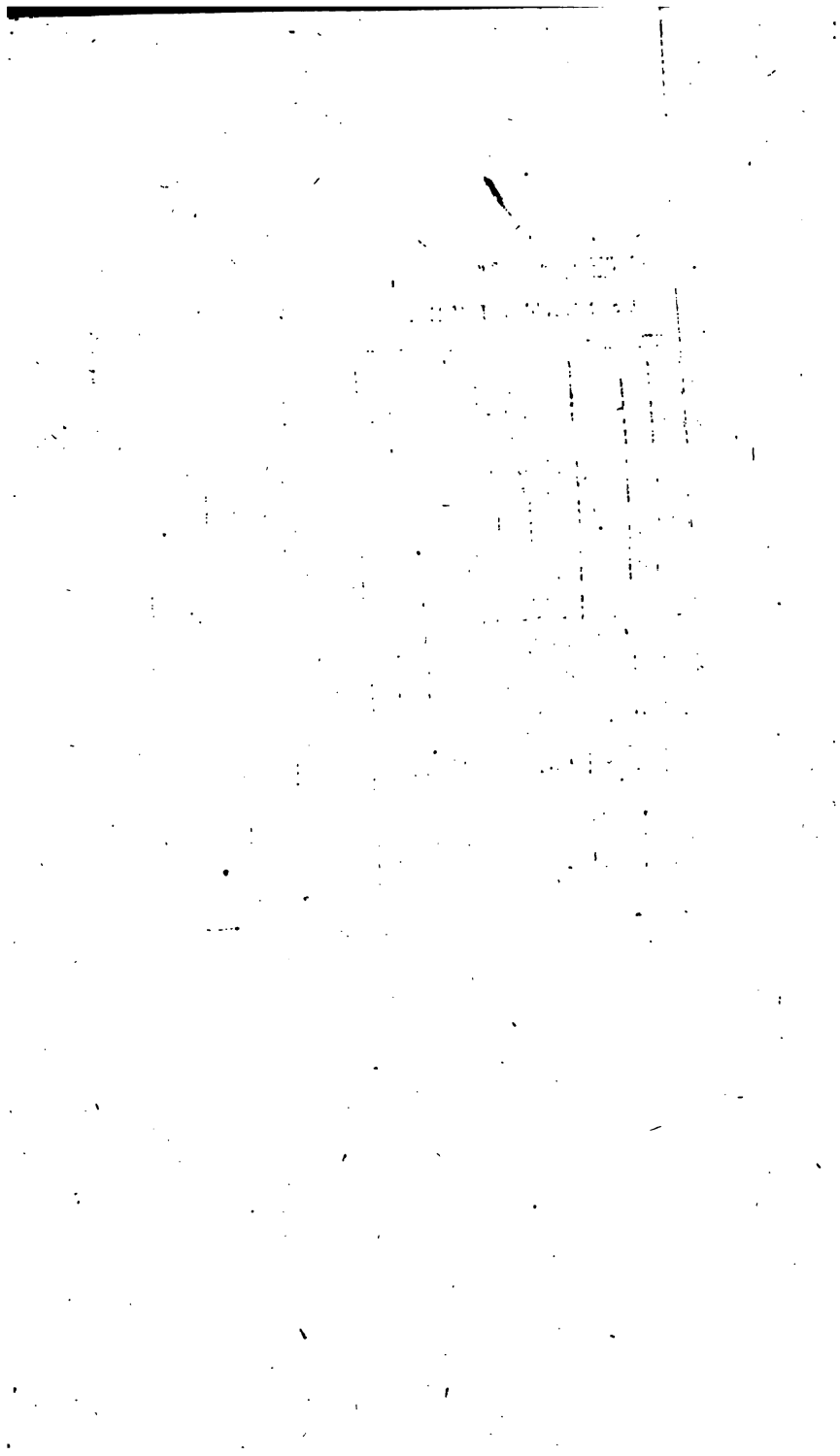
selon le motif de leur détention, sont nourris de *pudding* et de légumes; l'Union, l'Etat, le Comté ou la personne qui les fait arrêter, paye un shilling par jour pour leur pension. Il ferait fort à désirer qu'ils pussent être mis dans une prison tout-à-fait distincte; les *convicts*, c'est-à-dire, les prisonniers par jugement pour crimes constatés, ne devant être mêlés avec ceux d'aucune autre espèce, ni par la nature différente de leur situation, ni pour le bénéfice de leur amendement, ni pour les égards dûs aux détenus qui ne sont pas jugés criminels.

Il est peut-être plus important encore de voir disparaître du régime nouveau des prisons, la distinction humiliante avec laquelle sont traités les hommes de couleur, condamnés pour les mêmes crimes, et par les mêmes tribunaux que les blancs. Est-ce un hommage que les inspecteurs veulent rendre à l'opinion, dans un pays où l'esclavage n'est pas encore entièrement aboli? On le conçoit difficilement quand on voit que ces inspecteurs appartiennent presque tous à la Société qui plaide en faveur de l'abolition de l'esclavage des noirs? On le conçoit moins encore quand on voit dans le régime des prisons tant de preuves de leur humanité et de

leur justice; et cependant cette conduite est une offense évidente à l'une et à l'autre.

Le local et les distributions de la prison de Philadelphie peuvent aussi être susceptibles d'amélioration, surtout d'agrandissement, peut-être aussi d'une plus grande sûreté; mais leur imperfection à laquelle d'ailleurs on s'occupe de remédier, donne un mérite de plus au bon ordre et à la salubrité qui y règnent.

Puisent les inspecteurs des prisons continuer l'exacte surveillance, la vigilance de tous les momens qu'ils exercent, et font exercer, par leurs subordonnés. L'effet commun des succès est d'augmenter la confiance jusqu'à l'excès, et par conséquent de diminuer la rigueur des soins. Cette négligence entraînerait bientôt de grands désordres dans la prison, et ces désordres nuiraient peut-être irrévocablement au maintien en Amérique, et à l'établissement en Europe de ce système juste, doux, bienfaisant de jurisprudence criminelle et de gouvernement des prisons. Les innovations pour le bien, ont toujours des ennemis si acharnés dans la malice, l'irréflexion, et sur-tout l'ignorance, que ceux qui travaillent pour le bien de l'humanité ne peuvent prendre trop de précautions pour ne pas leur donner des armes.



		Pendant les							K CE.		Total des Convicts.
EPOQUES.	NOMBRE des Convicts.								Pot		
		Hommes.	De la ville & du Comté de Philadel- phie.	Femmes.	Des autres parties de l'Etat.	Asislinat.	Mort d'homme.	Vol de grands chemins.	Bris de maison.	Etrangers.	
Ancien système.											
De Jan. 1787, à Mai 88.	163	23					20	20	21	36	186
De Mai 1788, à Mai 89.	95	10	8				5	24	9	6	113
De Mai 1789, à Mai 90.	108	20	6	6			10	13	13	14	134
De Mai 1790, à Juin 91.	114	39	8	3			4	20	22	13	161
Totaux	480	92	22	9			39	77	65	69	594
Nouveau système.											
De Juin 1791, à Juin 92.	44	12	9			1	2	2	8		65
De Juin 1792, à Juin 93.	25	17	19			2	1	11	9	10	61
De Juin 1793, à Juin 94.	40	10	11			1		2	2	10	61
De Juin 1794, à Mars 95.	35	14	7			1		1	7	3	56
Totaux	144	53	46			5	3	16	22	23	249

Récapitulation de la Table.

Crimes & Délits.	Sous l'ancien système	Sous le système actuel.
Asassinat.	9	
Mort d'homme.		5
Vol de grands chemins.	39	3
Bris de maison.	77	16
Vol	374	163
Faux	5	10
Fausse monnoye.	6	4
Délits du petit criminel		
1er. degré.	4	3
2 ^o . ad. degré.	13	1
Recelé de vol. 1er. degré.	26	1
2 ^o . ad. degré.	6	5
Vol de chevaux.	10	27
Escroquerie.	3	3
Bigamie.	1	
Attentat à la vie d'autrui.	6	
Recelé de convict.	5	
Lieux de débauche.	10	2
Total.	594	243'

Observations sur le Tableau précédent.

1^o. Dans les quatre premières de ces huit années, la ville et le comté de Philadelphie fournissaient seuls aux prisons. Dans les quatre dernières, tout l'état de Pensylvanie y envoyait les condamnés.

2^o. Parmi les trois cens vingt et un étrangers blancs *convicts* dans les quatre premières années, cent trente et un étaient Irlandais, quatre-vingt

quatre Anglais, ou Écoslais. Dans les quatre dernières, parmi les cent-trente cinq blancs étrangers, quatre-vingt-douze sont Irlandais, dix-neuf Anglais ou Écoslais; les Irlandais composent donc dans les deux époques plus des deux tiers des étrangers, et presque la moitié de la totalité des prisonniers, en y comprenant même ceux dont la patrie est inconnue, et dont un certain nombre est, sans doute, Irlandais.

3°. Dans les quatre premières années, soixante treize criminels ont été condamnés de nouveau, et quelques uns jusqu'à cinq à six fois, tandis que seize seulement appartenant au régime de ces quatre années l'ont été dans le nouveau. — On a sù que six ou sept avaient été pendus dans les autres États de l'Union. — On n'a pas entendu parler des autres. Cinq seulement des *convicts* appartenant au nouveau régime, ont été condamnés de nouveau; tous pour des délits du petit criminel, trois étaient nègres, deux blancs.

4°. Dans l'ancien comme dans le présent régime, les crimes sont plus multipliés, sans aucune proportion, dans Philadelphie et ses environs.

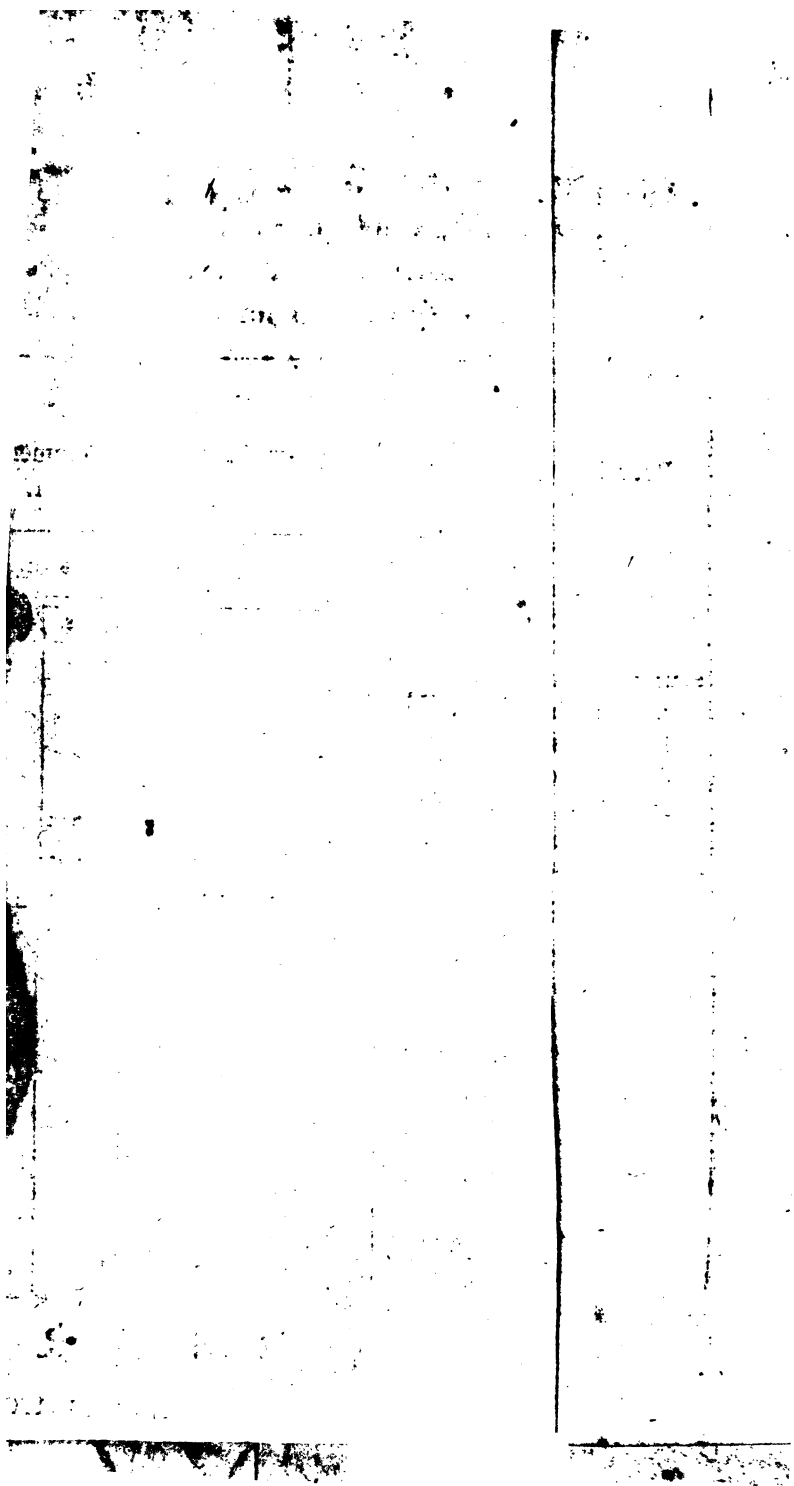
L'état ci-dessus, est relevé du livre des prisons de Philadelphie, où le shérif a ordre,

par la loi , de renvoyer tous les condamnés de l'État , sous sa responsabilité. Comme les crimes de rapt , de meurtre de toute nature , d'incendie , de trahison étaient punis de mort jusqu'à l'année 1793 , il se peut que quelques criminels de cette sorte , aient été pendus pendant les sept années précédentes dans les autres Comtés , mais le nombre ne peut en être que petit ; quant aux crimes de trahison , ceux de l'insurrection de Pittsburgh en Octobre 1794 sont les seuls dont on ait entendu parler depuis long-tems.

Je finirai , en répétant que sans doute l'État de la société en Europe , ne peut être entièrement comparé à l'État de la société en Amérique , particulièrement dans le rapport des crimes , puisque dans presque tous les États d'Europe la surabondance de population rend la subsistance de beaucoup d'hommes incertaine , et que la longue habitude des crimes y rend les crimes plus fréquens , plus méchamment , plus artificieusement combinés , les criminels plus scélérats ; tandis qu'en Amérique , le manque de population assure à tous les hommes qui y sont et qui y viendront pour bien longtems encore , la subsistance , l'aisance , et même la richesse en raison de leur industrie. Mais cette

longue habitude des crimes, cette perpétuité de scélératesse dans les mêmes hommes, en Europe, appartient en grande partie aux jurisprudences criminelles, aux codes pénaux, aux gouvernemens eux-mêmes qui influent toujours d'une manière plus ou moins directe sur les actions, et plus que tout, sur l'habitude des gouvernés. La différence évidente du résultat des deux systèmes de pénalité et d'emprisonnement en Pensylvanie, différence avouée par tous les habitans de l'Etat, sur-tout la différence dans le nombre des criminels condamnés de nouveau après une première détention, est une preuve incontestable de cette vérité: tout doit donc, je le répète, encourager l'Europe à suivre ce grand exemple.

Peut-être, et probablement même, les résultats pareils y feront-ils plus longs à obtenir, peut-être ne s'obtiendront-ils jamais aussi complets qu'ils le sont ici; mais on ose assurer qu'ils étonneront même les hommes généreux qui tenteront l'essai, s'ils l'entreprenent avec courage, persévérance et détermination. C'est au gouvernement à choisir ces hommes, et à leur donner des moyens.



RELEVÉ GÉNÉRAL & par chaque *convict*,
 de Philadelphie: pour ant au 31. Octob: 179
 été fournis pend pris sur les rapports f
 fin de chacun de ces

No			No.		
Pour le quartier commençant ar 31. Jan			ur le quartier commençant 1. May		
Dû par les <i>convicts</i> en masfe.			par les <i>convicts</i> en masfe.		
	Dlrs.	Cts.		Dlrs.	Cts.
Pour nourriture, loge- ment, salaires du géo- lier, de ses asistans, de tous les employés, memoires du médé- cin, ferrurier et autres	1718	71 $\frac{3}{4}$	nourriture, loge- ment, salaires du géo- lier, de ses asistans, de tous les employés, memoires du médé- cin, ferrurier et autres	1473	49 $\frac{3}{4}$
— Souliers à eux fournis	57	56 $\frac{3}{4}$	Habillement - - -	259	79 $\frac{3}{4}$
— Habillement - - -	147	45	Souliers à eux fournis	77	83 $\frac{3}{4}$
	1950	74 $\frac{3}{4}$		1811	13 $\frac{3}{4}$

ausi entrepreneurs pour le compus, ils achètent le sel, et r
 de son travail de 60 cents, à un tion faite de ces gages du pr
 branche de revenu à environ 4 de même des autres articles
 quelles la prison a le profit qu'a it faire les mêmes ouvrages p
 un nombre deux ou trois fois pl el.
 De tous ces moyens, il résu de la dépense qu'elle occasion
 même salaire qu'il recevrait, s'il

un de ceux avec la ville et comté
 le montant de 12c. qui leur ont
 le commis de la 1^{re} Fev:
 rs, comme il est

evr: et finissant au May et finissant au

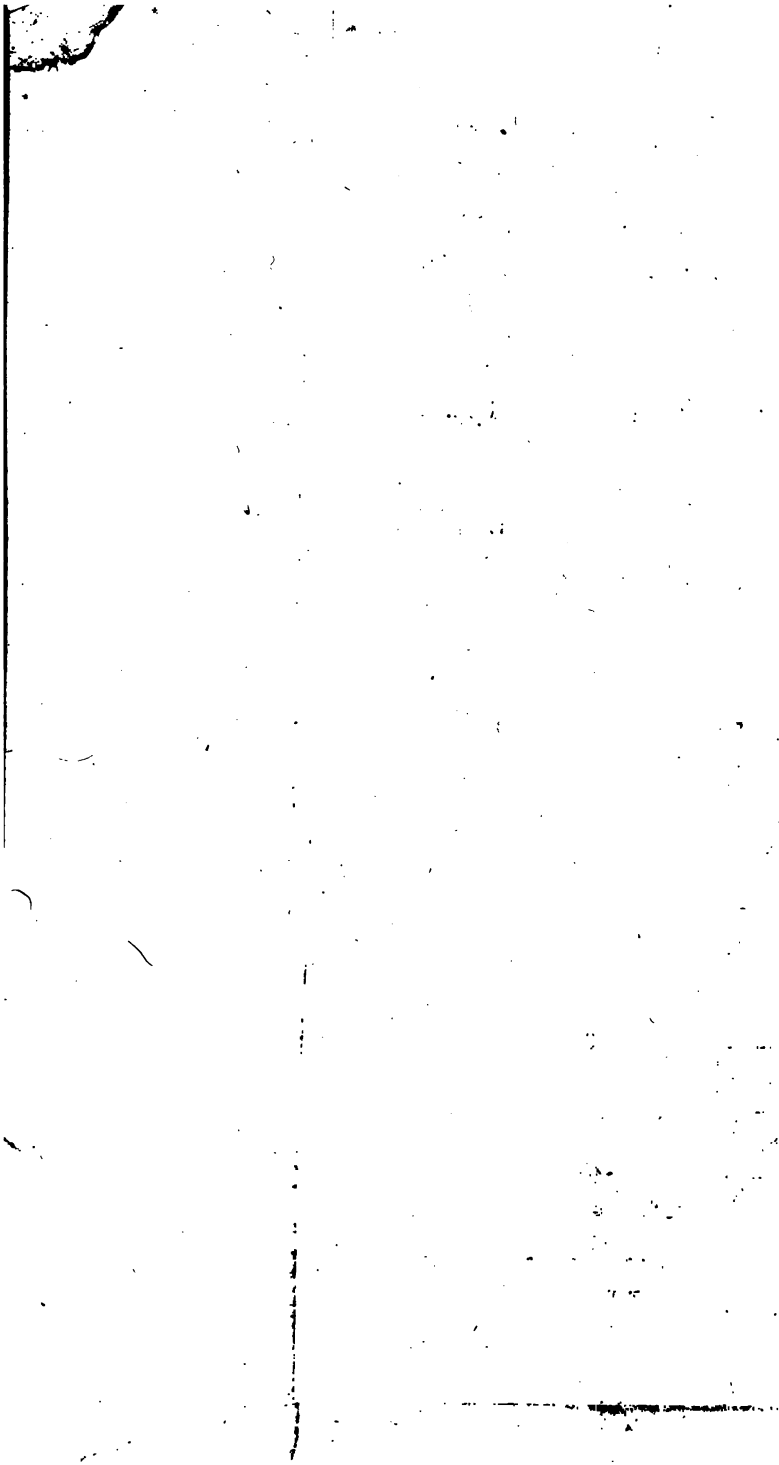
des *convicts* en masse. r des *convicts* en masse.

	Dlrs.	Cts.	Dlrs.	Cts.
fait à la ma-				
e des clous -	547		292	29½
u marbre -	1040		1186	4½
e Paris broyé	111		87	46½
e fouliers -	94			
des Tisferans	127		162	16½
- - -	123			
finiers, bar-			309	39½
illeurs, bala-				
pour blanchi-				

ne avec les débitants
 et de l'achat des m
 ail, dont cependant
 ouvriers libres. Le t

Il est plutôt un obje l'ouvrier *convict* gagne le





Avril 1797.

Deux années se sont écoulées depuis que je n'ai visité les prisons de Philadelphie, dont, cependant je n'ai pas perdu de vue des progrès. Les bons effets du système qui y est adopté, ne se sont pas démentis. Aucun *convict* sorti de cette prison, n'y a été condamné pour de nouvelles fautes. On fait à peu près ce qu'ils font tous devenus. Ils sont ouvriers paisibles, laborieux, et ne donnant aucun scandale dans les différentes parties de l'État qu'ils habitent. Deux seuls prisonniers sont morts dans la prison, depuis deux ans, et l'un d'eux par un accident.

L'établissement pendant ce tems, a reçu encore quelques améliorations dans ses bâtimens, et dans son régime. Le local est tellement circonscrit par les rues environnantes, qu'il reste toujours trop petit pour sa destination. Mais il est arrangé plus commodément. Un bâtiment demi-circulaire élevé au fond de la cour contient, à son premier étage, tous les ateliers, qui occupaient précédemment le front de la maison. De grands hangars très aérés, au dessous de ces ateliers, servent au sciage du marbre, et aux autres ouvrages grossiers et bruyans;

ils sont séparés entre eux. La manufacture de clous très étendue a aussi son bâtiment séparé. Les *convicts* ne sont donc plus exposés à la rigueur terrible des gélées, ni à l'ardeur dévorante du soleil.

Le milieu de la cour, dégagé de tous les ateliers, et de tous les matériaux qui l'obstruaient, laisse à l'air une circulation plus libre ; la salubrité du local gagne donc beaucoup par le nouvel arrangement ; l'ordre en est aussi plus facile à maintenir. Les *convicts* travaillant tous dans la même cour, rapprochés les uns des autres, avaient des occasions continuelles de s'entendre, au moins par signes, de compléter ; leur rapprochement trop immédiat était de quelque obstacle à leur amendement, et aurait produit quelques désordres, si la vigilance des inspecteurs et des employés de la prison eut été moins active.

Le nouveau bâtiment est éloigné des murs d'enceinte, qui sont eux mêmes plus élevés qu'ils ne l'étaient précédemment. Les *convicts* n'ont donc aucun moyen de communication avec l'extérieur ; et l'on s'aperçoit déjà aussi, que réunis en moins grand nombre dans les mêmes ateliers, plus distans entre eux, ils sont plus d'ouvrage.

Les ateliers déplacés de l'ancienne partie de la maison qu'ils occupaient, ont laissé plus de place pour les dortoirs, dont chacun contient ainsi moins de lits.

Les prisonniers pour fait de police, ou détenus en attendant leur jugement, ne sont plus, comme ils étaient il y a deux ans, entassés dans un étage bas et mal sain, et livrés à l'oisiveté : leur logement est augmenté de l'étage supérieur à celui auquel ils étaient réduits. Le local est encore étroit pour leur nombre, mais la grandeur de la maison ne permet pas de l'étendre d'avantage. D'ailleurs cette prison ne doit, dans sa destination, être que celle des *convicts*, et il est à désirer que tout autre espèce de prisonniers en soit promptement éloignée : ou s'en occupe. En attendant, ceux qui ne sont pas *convicts* participent à l'ordre admirable, qui place les prisons de Philadelphie au premier rang des établissemens utiles et bien-faisans. Ces prisonniers étant généralement détenus pour un tems fort court, ne sont employés qu'à des ouvrages faciles, comme le nétoyement de l'étoupe, du crin &c. &c. L'État, la Ville ou ceux qui ont provoqué leur emprisonnement, continuent de payer leur entretien à l'établissement de la prison ; mais ce-

Ici tient compte aux prisonniers du produit de leur travail, quelque modique qu'il soit. Ils ne doivent pas être mêlés avec les *Convicts*; ils travaillent donc, et mangent à part, dans de grandes salles en avant de leurs dortoirs. Le cuisinier qui prépare les alimens des convicts, prépare aussi les leurs, qui consistent en: du bouillon, des légumes, du *maïs*, et du pain. Cette nourriture est suffisante pour eux, parce que leur travail est peu fatigant. Leur détention, n'est d'ailleurs, qu'un état de passage. La viande dont à été fait leur bouillon, est donnée aux *convicts*, qui occupés à des travaux plus pénibles, ont besoin d'une nourriture plus substantielle: leur détention, étant d'ailleurs de plus longue durée, ce petit bien-être, ne fut-il pas absolument indispensable à l'entretien de leur forces, ferait encor une douceur que les inspecteurs ne voient aucun inconvénient à leur procurer.

Les Nègres ne sont plus, à l'heure des repas, séparés des *convicts* blancs: mais les inspecteurs, en les faisant manger à la même table, ont plutôt cédé à la honte des reproches qui leur étaient fait à cet égard, qu'écoutés les sentimens de justice qu'on a tant droit d'attendre d'eux. Cette honte n'a même pas triomphé encor entierement du préjugé qui les en-

vienne, et qu'ils n'ont pas eu la force de surmonter tout à fait. Les Nègres mangent bien à présent à la même table que les blancs, mais ils sont tous réunis à l'un des bouts de cette table; ce sont eux qui font les petits services de la table, et tout ceux de la maison, qui ne sont jamais faits par les blancs, et ils les font sans salaire. Espérons que le tems donnera à ces inspecteurs un peu plus de philosophie, sur ce point, et que cette petite faiblesse disparaîtra, de leur conduite si respectable d'ailleurs, et si faite pour leur mériter la reconnaissance de tout ce qui prise l'humanité et la vertu.

Aucune amélioration n'est encor faite, ni même est encor crue possible pour les prisonnières, soit *convicts*, soit détenues pour inconduite. Le petit nombre de ces prisonnières, et l'étroit du local, rendent sans doute très difficile d'établir dans cette partie, le même ordre, le même travail profitable, la même perfection qui est dans l'autre. Il faut se fier à la sagesse, à l'intelligence, au bon esprit des inspecteurs pour vaincre ces obstacles; ils trouveront, avec le tems, les moyens de les surmonter, quelques grands qu'ils soient.

Le seul écueil pour eux, est toujours la trop

grande disposition à l'indulgence. Le principe en est estimable, mais les conséquences en sont dangereuses. En ne croiant plus avec trop de facilité à l'amendement du criminel, en lui faisant subir avec exactitude la durée prononcée de son *solitary confinement*, ils assureront davantage cet heureux changement : ils s'aperçoivent de cette nécessité, car déjà ils ont eu à se repentir de leur trop de confiance. Mais comme ils veulent le bien, qu'ils ne pensent qu'au bien, qu'ils y devoted leur tems, qu'ils négligent souvent pour l'opérer, leurs affaires personnelles, ils feront, par leurs propres observations, ramenés à cette exacte sévérité, qui repugne à leurs dispositions douces, et bienfaisantes, ils reconnaitront qu'elle est un bienfait, pour les *convicts* eux-mêmes, et pour la société toute entière.

Au demeurant, la Jurisprudence de Pensilvanie, et avec elle le système de la conduite des prisons qui en est le soutien, s'étend dans l'Amérique Unie. Les états de *New-York*, de *Jersey*, de *Maryland*, de *Virginia*, l'ont déjà entièrement adopté. Sans aucun doute, ils seront suivis en peu de tems, par les autres États dans cette honorable imitation.

T R A

des Représentans

credi, Mars 22. 17

le 16 du courant a motion de Mr. *Stoemas*
des inspecteurs imprimés dans le journal de

IN, Gouverneur d

ons, a empêché jusconté de Philadelphie, de
de ces loix ou de ce comme un devoir qu'ils ont
argés, de mettre selon préliminaires pour les

ntageuses du Systemr celui des détenus, nous
matière.

bsolument nouveau & combinés. Ce n'est géné-
on peut s'attendre touter dans la circonstance
ait de trouver, poury donner entierement leur
e la plus grande parts aux criminels, & de fur-
attendre du tems se duiroit un revenu capable
me jusqu'en l'année s malheurs de cette même
c pris la 1er Novem

les prisonniers.

AV OIR.

	Dlrs.	Cts.	Dlrs.	Cts.
A	---	--	1210	72
P	1862	67		
	2658	30		
A	2620	95		
	1723	34		
	923	34		
	6979	4		
	94	2		
	345	59		
	385	59		
	3344	90		
ics pri-				
	24	80		
t fur les				
de la				
	397	85		
e nour-				
domes-				
elle des				
	15847	11		
			37207	50
			12491	49
			50909	71

Je joins ici l'état des dépenses des prisons de Philadelphie, tel que les inspecteurs l'ont présenté, le mois de Mai dernier, à la législature de l'État de Pensilvanie: il prouvera aussi la sagesse, et l'utilité de cette administration dans le rapport économique. On y verra, avec plaisir, l'exemple d'une prison qui ne coûte rien à l'État; et qui satisfait à tous les genres de dépense qu'elle occasionne par le travail des prisonniers, qui n'en sortent jamais eux-mêmes; sans emporter la propriété d'une somme plus ou moins considérable.

Amsterdam, Fructidor an 6. (7^{bre} 1798.)

L'écrit qui a pour titre, *des Prisons de Philadelphie*, fait en 1795, annonçait déjà quatre années d'heureux succès, de la nouvelle jurisprudence criminelle de l'Etat de Pensilvanie, et du nouveau régime des prisons de sa capitale. Le court supplément dont cette édition est augmentée, y ajoute l'expérience toujours heureuse de deux années de plus, et les gazettes Americaines du commencement de 1798, confirment encor pour une année postérieure les mêmes résultats.

Voilà donc une expérience autentique de sept années consécutives, par laquelle il est prouvé, — que l'ordre public peut être maintenu dans un grand État, sans que la peine de mort soit employée pour la répression des crimes; — que loin que le nombre des criminels, soit augmenté par cette douceur de la loi, il est diminué; — enfin que les mêmes individus qui d'après l'ancienne jurisprudence auroient, ou fini sur l'échafaut, ou été à jamais bannis de la société, ou qui n'y seraient rentrés que pour en être le fléau, en deviennent aujourd'hui, prèsqu'en totalité, membres utiles, et sont,

par l'ensemble du nouveau système, ramenés à un amendement total qui les rend de bons citoyens.

Une satisfaction intime est le premier sentiment dont est pénétré l'homme qui ne peut plus méconnaître cette vérité ; le second, qu'il éprouve promptement, est le desir que sa bienfaisante application, ne soit pas confinée, dans un seul coin du monde : il voudrait que toutes les nations y participassent. Et comme il y voit un grand bien assuré pour l'humanité, il forme le vœu, que sa patrie en donne le premier exemple : car c'est vers son bonheur, que ses pensées sont plus particulièrement dirigées, en il lui veut encoꝛ la gloire de guider les autres nations dans la route qui conduit au perfectionnement de l'espèce humaine, et à l'amélioration de sa condition.

L'Histoire des jurisprudences criminelles, et de leurs effets, dans tous les âges, apprend à celui qui veut y lire, que la rigueur des peines, et la cruauté des supplices, n'ont jamais opéré, au moins pour longtems, la diminution des crimes. „ *Il se commettait moins de crimes à Rome,* ” dit MONTESQUIEU „ *sous les loix Valérienne,* „ *et Porcia,* que *sous les loix Royales et celle des* „ *douze Tables.* ” Le barbare supplice de la roue

n'a jamais diminué le nombre des crimes qu'il menaçait : et dans nos armées, on n'a pas remarqué que le nombre des déserteurs soit accru depuis que la peine de mort a cessé d'être la punition de ce crime militaire. Depuis que la peine de mort a été abolie en Russie par la Reine Elisabeth, moins de grands crimes y ont été commis. Le Duc de Toscane, peu de tems après la publication du traité des delits et des peines, abolit la peine de mort dans ses États, même pour le meurtre : cinq meurtres n'ont pas été commis dans les vingt années suivantes, tandis qu'à Rome, dans un climat à peu-près pareil, sous un gouvernement de même nature, avec des moeurs généralement semblables, et la même religion, mais où la peine de mort était celle des meurtriers, le terme moyen des meurtres commis annuellement était de plus de cent. Il est vrai aussi que les *lieux saints* y donnaient à file aux criminels, que les graces s'y obtenaient facilement et que l'espérance de l'impunité y enhardissait au crime. (*)

(*) *Sir Morton Eden*, dans un ouvrage publié, en 1796, sur l'état des pauvres en Angleterre, ouvrage dans lequel il donne un aperçu rapide de l'état de la société depuis la Conquête, dit, en parlant des règnes d'Henry VIII. et d'Elisabeth : « Les Ecrivains qui soutiennent que la sévérité des

„ *Qu'on examine,*” dit encor MONTESQUIEU,
 „ *la cause de tous les relâchemens, on verra qu'elle*
 „ *vient de l'impunité des crimes, et non de la ma-*
 „ *dération des peines.*” Et l'on fait que les cri-
 mes pour lesquels la loi prononce la peine de
 mort, ont, dans tous les pays du monde, moins
 de dénonciateurs, que ceux dont la peine n'est
 point capitale; que la pitié, heureusement par-
 tout naturelle à l'homme, fait souvent trouver
 au criminel que la conviction mènerait à l'é-
 chafaut, des avocats dans le coeur de ses té-
 moins, quelquefois même dans celui de ses juges.
 Combien d'hommes, sans aucune réflexion, et
 obéissant seulement à leur sentiment intérieur,
 répugnent à concourir à la destruction d'un
 autre homme, tandis que si la peine était moins
 sévère, ils dénonceraient, poursuivraient le cri-
 me, déposeraient contre lui avec une entière
 vérité, et concoureraient, sans obstacle, à sa

„ peines, n'est pas le meilleur moyen d'arrêter les crimes,
 „ sont entièrement justifiés par l'histoire de ces tems. Jamais
 „ d'aussi sévères loix et en aussi grand nombre, n'ont été
 „ faites, ni exécutées avec plus de rigueur; et jamais la
 „ vengeance inflexible de la justice n'a eu moins d'effet. *Har-*
 „ *risson*, dans sa description de l'Angleterre, dit que le Roi
 „ faisoit exécuter ces loix de sang, avec tant de sévérité,
 „ que pendant son règne, 72,000 voleurs, grands ou petits,
 „ ont été mis à mort.”

conviction! La rigueur des peines est donc une cause réelle de l'impunité des crimes. Elle est donc aussi, par-là, une cause de désordre dans la société, pour qui la répression des crimes est un moyen nécessaire de tranquillité et de salut.

Le chapitre qui a pour titre, *de la peine de mort*, dans l'immortel ouvrage de *Beccaria*, est à lui seul un traité complet, qui démontre l'inutilité, et l'injustice de cette peine. Il y répond à toutes les objections que l'on pourrait opposer à sa doctrine, même à celles si puissantes pour le commun des hommes, que l'on voudrait tirer de l'habitude ancienne de toutes les nations. On aime à proclamer l'autorité d'un tel homme. Cependant l'expérience déjà longue de la jurisprudence criminelle de Pensilvanie, tout en étant le fruit de l'ouvrage de *Beccaria*, rend aujourd'hui son autorité même superflue, puisque cet État a mis en action, la vérité que ce grand homme n'avait pu qu'établir en principe, et qu'il en a placé l'évidence, à portée de tout le monde. Un reste de respect mal-entendu pour les préjugés, a laissé subsister encor, dans le code pénal de Pensilvanie, la peine de mort pour la punition du meurtre au premier degré, la réflexion fera

bientôt, sans doute, effacer cette dernière erreur. Quand il est prouvé que la peine de mort n'arrête point le crime du meurtre, la nation qui l'ordonne, ressemble beaucoup aux tribus sauvages, qui n'oublient un meurtre commis sur un des hommes qui leur appartient, qu'en élevant le *scalpel* du meurtrier, ou d'un de ses parens, ou d'un homme de sa tribu.

Quand la peine de mort est prouvée inutile, et qu'elle peut être, avantageusement pour la société, remplacée par une autre, elle devient une grande erreur en législation, on peut dire même, un crime; et les nations civilisées doivent s'empreser de l'effacer de leur code pénal.

Il n'est pas possible de douter que cette vérité ne soit entièrement admise par tous les gouvernemens. Les hommes, sont toujours, quoiqu'on en veuille dire, bons et humains, quand leurs passions mal dirigées, et leur intérêt mal entendu, ne les aveuglent pas assez pour les rendre méchans et cruels. Que l'on suppose, que l'ambition, l'avidité, l'exclusif intérêt personnel, et toutes les funestes passions qui assiègent l'espèce humaine, puissent écarter les gouvernemens de l'exacte observation de leurs devoirs: l'histoire de tous les âges, ne nous fournit, malheureusement que

trop de pareils exemples. Mais on ne peut imaginer aucun intérêt qui les porte, en aucun pays du monde, à ordonner, ou à maintenir un code pénal plus rigoureux qu'ils ne le croient nécessaire pour la répression des crimes, et pour le bien de la société. Ce ne peut donc être que la seule opinion de la nécessité de la peine du mort, et de l'impossibilité d'y suppléer, qui la leur fait encor conserver dans leur code.

Le devoir des gouvernemens est, aujourd'hui, de s'empreser d'approfondir cette opinion, dont l'examen les conduira à la conviction de la vérité contraire.

L'exemple de la Pensilvanie a montré évidemment, pour cet État, l'inutilité de la peine de mort, et le bienfait de sa suppression. Il devait faire la censure sévère de tous les autres États de l'Amérique, qui ne s'empreseraient pas à l'imiter entièrement, parce que tous sont dans une situation semblable, ou à peu près pareille de société; mais il n'en est pas de même pour toutes les nations Européennes. J'ai assés indiqué ces différences essentielles, et les causes principales de ces différences, dans la première partie de cet écrit, pour qu'il soit nécessaire de les repéter ici, ou même de donner plus de développement à leur exposé.

Tout convaincu que je sois, qu'un tel système peut être établi en Europe, sans plus d'inconvéniens ; et avec les mêmes avantages qu'en Amérique, et que par conséquent son établissement y est un devoir : tout empressé que je sois de voir opérer dans ma patrie, cette heureuse révolution ; je ne pense pas qu'elle doive y avoir lieu, sans les précautions, et les préliminaires, qui en assurent et qui en fixent le succès.

Il s'agit ici d'un grand bienfait pour l'humanité : du plus grand, sans doute, qu'elle puisse obtenir, puisque son résultat est d'arracher annuellement à la mort, un grand nombre d'hommes, et de faire concourir à l'ordre, et la prospérité de la société, l'existence d'un bien plus grand nombre encor, qui ne sont aujourd'hui, pour elle, qu'une source toujours renaissante, de pauvreté, de corruption, et des désordres les plus dangereux. Il ne faut donc pas, par une précipitation inconsidérée, en compromettre le succès ; et le gouvernement qui brusquerait la tentative d'une telle institution mériterait autant le reproche, que celui qui se refuserait aux moyens de l'opérer.

Il ne faut pas se dissimuler, que le préjugé de la peine de mort, a encor beaucoup de

défenseurs, même parmi les hommes les plus justes, et les plus humains.

Ils voyent dans cette peine, une réparation publique, des grands crimes, nécessaire au bon ordre. Leur pitié n'est pas intéressée à la conservation d'un scélérat; ils croient que de sa destruction dépend la sûreté de la société. Entretenus dans l'opinion de la nécessité du dernier supplice, par l'usage de tous les tems, et de tous les peuples, ils ne réfléchissent pas, que la crainte de la mort arrête peu de criminels; que leur exécution n'est qu'un spectacle pour le peuple, qui s'y porte en foule, et qui, ne s'y occupant pas du crime qui est puni, n'y est frappé que de la contenance du condamné, qui obtient son intérêt, et, en quelque sorte son admiration; ou son mépris, selon qu'il se présente à la mort avec courage ou avec faiblesse. Ils ne réfléchissent pas, que depuis qu'un sentiment éclairé d'humanité a fait proscrire les tourmens du supplice, l'effroi salutaire que l'on pouvait espérer du spectacle horrible d'une mort douloureuse n'existe plus: que la destruction du préjugé barbare qui faisait, dans l'opinion; participer la famille du condamné à la honte du supplice, concourt encor à diminuer l'effet de la mort sur l'échafaut. Ils ne croient pas

à l'amendement possible du plus grand nombre des criminels : ils n'imaginent pas qu'ils puissent être employés utilement, gardés avec exactitude ; et la crainte que sauvés de la mort, ils ne forcent aisément les prisons, que les portes ne leur en soient même facilement ouvertes, parceque leur nombre s'accroîtrait à l'infini, et que leur entretien deviendrait une charge onéreuse, leur fait encor regarder la peine de mort, pour ces criminels qu'ils jugent corrompus sans ressource, comme un acte de sûreté prévoyante, et de sage politique.

Convenons encor, que le petit nombre d'hommes plus éclairés, plus réfléchisans, et qui portent le plus ardemment, dans leur cœur le vœu de l'abolition de la peine de mort, ont craint que la doctrine de Beccaria, qu'ils chérissaient, ne fut plutôt la vision d'un philosophe philanthrope, qu'un système pratique, applicable à la société. L'exemple de Pensilvanie doit déjà rassurer ceux-ci ; mais la grande masse des préjugés subsiste encor. C'est vers leur destruction qu'il faut diriger les premiers efforts. C'est leur anéantissement, qu'il faut appeler à l'aide du grand bienfait de l'abolition totale de cette peine cruelle et inutile.

Il est peu de grandes innovations, même de

celles qui doivent produire le plus d'utilité ; qui puissent être introduites avec succès, sans être devancées, ou au moins accompagnées par l'opinion publique. Vouloir la violenter, c'est armer contre ces salutaires innovations la vanité, qui avec l'ignorance est un des plus formidables appuis des préjugés. Il faut la gagner par la conviction : et alors les succès seront certains. Sans doute on ne peut trop se presser d'opérer le bien de l'humanité. Mais le retard de quelques années, employées avec prudence, et au delà même de la stricte nécessité à l'établissement solide de ce bien, peut-il être comparé, à une précipitation irréfléchie qui, pouvant être suivie de mauvais résultats, l'éloignerait pour beaucoup plus longtems, peut-être pour jamais, car l'erreur trouverait alors pour s'y opposer, le prétexte de l'expérience.

La situation actuelle de la société en France, ainsi que dans beaucoup d'autres États Européens, n'est pas d'ailleurs celle, où cette précipitation toujours condamnable, pût être même excusée. Le nombre considérable de grands crimes, qui se commettent dans ces pays, si l'on en croit au moins le rapport des papiers publics, ne permet pas d'espérer que l'on puisse trouver dans la vanité de ces nations, une

philosophie assez réfléchie , assez calme , pour qu'elle vit sans effroi , et même sans une sorte d'indignation , l'abolition subite et totale de la peine de mort.

Mais c'est , précisément , parce que les grands crimes sont aujourd'hui dans nos sociétés , plus atroces , et plus multipliés que jamais ; c'est parce que la peine de mort n'en diminue ni le nombre , ni l'atrocité ; c'est parce que les criminels n'ont jamais marché au supplice avec plus d'audace ou d'indifférence qu'il faut s'occuper de substituer à la peine de mort , une peine plus efficace.

Ne nous le dissimulons pas ; la destruction absolue de toute idée religieuse dans la tête de presque tous les criminels , est la cause si non unique , au moins principale de cette insolence , si commune aujourd'hui , avec laquelle ils montent à l'échafaut , et qui fait ainsi des exécutions publiques , une insulte à la loi , et un outrage à la société. Et quelle autre cause pourrait-on lui assigner ? Que l'honnête homme , victime d'un jugement inique , ou d'une infame proscription , marche à la mort , avec une fermeté noble et sereine , il en trouve la force dans la pureté de son ame. Sa conscience est son appui : sûr , et fier de son innocence , il méprise l'ini-

quité de ses juges , la tyrannie de ses persécuteurs, comme il brave le fer de leurs bourreaux. Mais, l'incendiaire, l'assassin, le parricide, peuvent-ils trouver un tel appui dans leur amitié criminelle? Et n'est-il pas évident, au contraire, qu'étrangers à toute idée de la Divinité, ils s'avancent à l'échafaut avec audace, parce qu'ils voyent dans le néant le seul moyen d'échapper à l'horreur qu'ils inspirent au reste des hommes, de mettre fin au malheur, aux agitations, à la terreur, qui, au défaut des remords dévorent leur existence, et qui sont, heureusement les compagnes inséparables du crime; parce qu'enfin le néant où va les plonger une mort peu douloureuse, est pour eux le seul moyen d'étouffer les cris de leur conscience, le seul espoir de tranquillité qui leur reste.

Ainsi donc, en ne considérant absolument que la punition du crime, la mort n'en est pas une pour cette classe de criminels, aujourd'hui la plus nombreuse; tandis qu'une détention longue et rigoureuse ferait une peine dont ils sentiraient amèrement, et dont ils redouteraient la longue sévérité.

Dans ce que je dis ici, sur les crimes, et sur les peines, je n'entends pas parler des crimes politiques, ou d'État, qui, selon *Beccaria* lui-

même, ont toujours été, et doivent être toujours, jugés d'après une jurisprudence particulière, et qui étrangers à l'état habituel de la société, le sont ainsi à mon sujet. J'ai dit dans la première partie, que la mort des chefs d'une sédition, pourrait peut-être seule, briser la trame des complots, et préserver l'État de leurs dangers. Mais cette peine, alors est, plutôt l'effet d'une considération politique essentielle à la tranquillité de la société, que d'une proportion bien mesurée entre le delit et sa punition. Car, ne croirait-on pas, par exemple, que la dilapidation des deniers publics, qui, après la sédition, est, sans doute, un des plus grands crimes politiques, et qui acquiert d'autant plus de gravité, que celui qui s'en rend coupable, est revêtu d'une plus grande autorité, et d'une plus grande confiance; ne croirait-on pas, dis je, que le crime serait moins sévèrement, moins exemplairement puni par la mort du dilapidateur, que si les fruits de ses rapines confisqués, et convertis en une institution publique, particulièrement de bienfaisance, il était lui-même condamné à une longue et dure détention, forcé à un travail manuel, et livré plusieurs fois annuellement, dans les premiers tems de son emprisonnement, aux regards du public, dont il aurait pillé la

fortune; accru les charges par ses exactions, et contribué par son exemple à corrompre la moralité.

La certitude que la société n'a aucun danger à redouter de la conservation des criminels jusqu'ici destinés au supplice, est une première condition nécessaire, sans laquelle le législateur ne peut se déterminer à prononcer l'abolition de la peine de mort. L'espérance probable de leur amendement et de l'utilité dont ils peuvent devenir à la société, quoique condition moins indispensable, en est une encor d'une importance essentielle pour hâter en lui cette détermination.

L'accomplissement de ces deux conditions, dépend absolument de la conduite des prisons, dans lesquelles ces criminels doivent être détenus.

C'est donc l'essai d'un régime de prisons capable de remplir ces deux conditions, qui doit être le premier pas vers l'abolition de la peine de mort.

C'est donc, aussi, cet essai seul, qui dans les circonstances actuelles peut être tenté en France; il peut l'être facilement, sans secousse, presque sans l'intervention nécessaire de la législature; il ne peut donc éprouver, ni contra-

diction, ni obstacle. Ses succès entraîneront l'opinion publique, ils donneront les moyens de tenter plus encor, et d'opérer, enfin, la réforme désirée dans le code criminel.

Mais cet esai lui-même, doit être fait avec précaution, avec prudence, avec tous les soins enfin, qui doivent promettre, que l'espérance que l'on a droit d'en attendre, se réalisera.

On a vu, que même en Pensilvanie, malgré les circonstances favorables où se trouvait cet État pour établir le nouveau système des prisons, il ne l'a pas été sans obstacles; que les succès en sont dûs au zèle imperturbable des inspecteurs, à la vigilance exacte, constante, et toujours surveillée du gardien et de ses subalternes.

Il n'est par douteux qu'il ne se trouve en France, plus qu'en aucun pays du monde, des hommes disposés à dévouer leur tems et leurs soins au soulagement, au perfectionnement de l'espèce humaine, des hommes pour le cœur de qui l'amour du bien public, et celui de leurs semblables, est une religion. Mais, encor faut-il, qu'ils soient soutenus par l'espoir que leur dévouement opérera le bien auquel ils sont prêts à se consacrer. Et, peut-être, l'évidence avec laquelle je vois les succès du régime

des prisons de Philadelphie établi en France, frappe t'elle encor peu de personnes.

Il paraitra, sans doute, que cette importante considération doit rendre très circonscrits, et très partiels les essais de ce régime, que l'on voudrait y faire.

Encor une fois, il ne faut pas compromettre leur réussite qui ne peut manquer, qu'autant que ces essais seraient imparfaitement conduits.

Toutes ces réflexions longtems pêsées, m'ont fait penser, que voici quel pourroit être, à peu-près, l'ensemble de la marche à suivre, pour obtenir, avec le plus de certitude, l'effet désiré.

Un arrêté du Directoire suffit pour ordonner cet essai, puisque l'administration supérieure des prisons, ainsi que toutes les autres branches du pouvoir exécutif sont confiées à ses soins par la Constitution. Son consentement seul manifesté au Ministre de l'Intérieur, suffiroit même, pour autoriser celui-ci, à tenter cette épreuve. Mais comme, vû son importance, elle ne peut être revêtue de trop de solemnité, il seroit préférable, que sur un message du Directoire, le Corps législatif rendit une loi, qui ordonnât cet essai, et qui en prescrivit les principaux points règlementaires.

Les inspecteurs au nombre des dix ou douze dévoient être nommés par le Directoire. Mais comme cet office exigeroit qu'ils fissent un sacrifice presque entier de leur tems, qu'ils se dévoiasent à une vie laborieuse et pénible, à une continuité de soins, d'exactitude, de vigilance, et d'activité qui ne conviennent pas à tous les hommes, et auxquels tous les hommes ne sont pas propres ; comme ils ne recevraient aucun salaire, il semble, que ceux qui consentiroient à consacrer leurs facultés, et leur tems à un emploi aussi honorable, dévoient se faire connoître au Directoire, qui parmi les plus capables choisiroit encor ceux qui, par la moralité de leur vie précédente, appelleroient davantage le respect & la confiance de leurs concitoyens. — Ils dévoient être nommés quelque tems avant le rassemblement des prisonniers, afin que, de concert avec le Ministre de l'Intérieur, ils pussent s'occuper des arrangements convenables du local destiné à cette prison, des choix du gardien de la maison, et de ses subalternes, et des approvisionnemens nécessaires pour la subsistance, et le travail des prisonniers.

Le gardien de cette maison dévroit lui-même être un homme reconnu probe, intègre,

moins dépourvu d'éducation, et même d'instruction que ne le sont communément les préposés à la garde des prisons. Le titre de gardien, de directeur, ou d'agent des prisons devrait être le sien, et non plus celui de géolier, ou de concierge. L'influence des noms est plus grande, que souvent ou ne le pense, tant pour la considération à obtenir des autres, que pour celle que l'on se porte à soi même, et qui, devient elle-même une espèce de conscience. La confiance que les inspecteurs lui témoignent, les égards avec lesquels il en sera traité, concourront encor à lui donner cette considération si nécessaire. Il devrait recevoir de bons appointemens qui pussent le faire vivre avec aisance, et le mettre au-dessus de la tentation. Les employés subalternes doivent être aussi des hommes d'un caractère honnête, doux et ferme, et incapables de s'écarter de la ligne de conduite qui leur serait tracée.

L'emplacement destiné à cette prison, doit être vaste, isolé, s'il se peut, de tout autre bâtiment, rendu d'une grande sûreté, et arrangé de manière que le plus grand nombre de ses points puisse être aperçu à la fois, pour que la surveillance en soit plus facile. Il doit être choisi dans Paris même, parce que l'assistance

y fera plus immédiatement apportée contre les désordres qui pourroient s'y commettre, et dont, malgré les soins qui doivent les prévenir, il ne faut jamais perdre de vue la possibilité.

Les cellules solitaires, placées dans un bâtiment isolé, doivent être, elles mêmes, séparées les unes des autres, de manière, que les prisonniers qui y seront renfermés, ne puissent pas converser entr'eux. Ce soin n'est pas aussi exactement pris dans les prisons de Philadelphie, où, comme on l'a vu, les cellules, fermées seulement pas deux grilles de fer donnent sur le même corridor, et laissent ainsi aux prisonniers la facilité de s'entendre. Il n'est arrivé aucun inconvénient de ce rapprochement, mais on sent qu'il peut en résulter, et il faut les prévoir : d'ailleurs une grande partie de l'effet que l'on a droit d'attendre de la séparation absolue du prisonnier de tout être vivant, doit être perdue par ce rapprochement. Peut-être ne serait-il pas sans une grande utilité, que les murs de ces lieux de recueillement fussent chargés de quelques sentences, à la fois sévères, et consolantes, appropriées à la situation d'un criminel que l'on veut ramener à l'amendement, et à qui l'on ne veut pas refuser l'espérance d'un meilleur sort, s'il s'en montre

digne. Des sentences pareilles dévoient aussi se lire sur les murailles de la cour, sur celles des ateliers de travail, des dortoirs, sur toutes celles enfin de la prison. (*)

Le nombre de condamnés à rassembler dans cette maison d'essai ne devoit pas excéder trois cent : encor seroit-il peut-être plus sage de ne pas les réunir tous à la fois, dans le commencement de l'établissement. Ils dévoient alors être choisis parmi les criminels de tous les âges, condamnés par jugement à la détention pour un tems plus ou moins long, et pour toute espèce de crime. Ou trouveroit prudent, sans doute, de n'en pas choisir un tres grand nombre parmi les criminels les plus invétérés, comme aussi ils ne dévoient pas être pris tous parmi les moins coupables, et les plus jeunes : Il s'agit de faire un essai vraiment loyal, et si la prudence exige que les obstacles les plus difficiles n'y soient pas accumulés, la confiance publique ne pourroit pas être acquise, s'ils en

(*) „ Autrefois les Chinois avoient la coutume de peindre
„ sur les murs de leurs maisons, les images de plusieurs di-
„ vinités. Depuis, Confucius en effaca peu à peu ces ma-
„ gots, & on leur substitua des sages conseils, des pensées
„ sublimes ; cet usage subsiste encor à la Chine, et n'a pas
„ peu contribué à faire des Chinois un peuple raisonnable.”
(*St. Lambert, Catechisme Universel.*)

étoient tous écartés. On dévroit prendre, dans la fuite, les condamnés dès le moment où leur sentence seroit prononcée, et sans les laisser conduire dans d'autres lieux de détention.

Quant à l'administration intérieure de la prison, tant pour l'ordre, la sagesse, la prévoyance dans les dépenses, la pureté, l'exactitude et la publicité de sa comptabilité, que pour la conduite des détenus, les principes sur lesquels est établie celle de la prison de Philadelphie, sont tellement fondés sur la justice, la raison, la connoissance des hommes; ils forment tellement un ensemble; ils sont tellement calculés pour l'avantage de la société; leur pratique a produit des résultats si heureux, que sans doute, les inspecteurs de la prison d'essai, croiront sage de ne s'en pas écarter, au moins dans les points vraiment essentiels. Ils penseront peut-être, que des précautions plus sévères de sûreté devroient être prises, sur-tout dans les premières années: que la proportion des employés dévroit être plus grande qu'elle ne l'est en Amérique, les ateliers plus divisés, les outils plus exactement retirés, et enfermés chaque soir; peut-être trouveront-ils convenable d'adopter le soin observé dans les maisons de force en Hollande, pour rendre les complots plus difficiles, celui de ne

pas laisser longtems les mêmes prisonniers coucher dans les mêmes dortoirs, et de changer souvent la composition des chambrées. Leurs observations, leur prudence les guideront pour ces légers changemens. Il serait peut-être à propos aussi, qu'un corps de garde nombreux fut établi à l'extérieur de la prison, et près de ses murs, afin qu'une grande force fut toujours prête à arrêter un grand désordre. Mais jamais cette troupe armée ne devrait être introduite dans l'intérieur, si elle n'y était appelée par le gardien: aucun des officiers ou soldats n'aurait la faculté d'y entrer individuellement, que par la permission expresse des inspecteurs. La force armée serait un moyen prévu de sûreté, mais elle n'en doit pas être un de police ordinaire, pour laquelle il ne doit en être employé d'autres, que ceux de sévérité exacte et soutenue, de justice, de bonté, de vigilance active, et de travail. En tout, les permissions d'entrer dans l'intérieur de la prison ne peuvent pas se donner trop rarement. Ces visites sont, pour le prisonnier, un sujet de distraction, non seulement de son travail, mais aussi du calme, et de l'uniformité constante de vie, qui sont avec raison, regardées comme une partie essentielle du régime dont on attend son améliora-

tion ; elles peuvent d'ailleurs être pour lui un sujet d'humiliation, dont il doit être préservé, quand elle ne peut pas lui être utile : Enfin, elles sont une source d'abus dont on ne peut trop soigneusement écarter d'eux les moyens. (*)

On se plaint généralement de la difficulté

(*) Je dirai à cette occasion, que la manière dont sont exposés, en France, les criminels pour qui l'exposition est une partie de la peine prononcée, semble n'être pas conforme à l'esprit de la loi, qui a voulu faire une peine de l'exposition. Un criminel sentencié, est un homme que son crime prouvé a mis sous la main unique de la justice, et qui ne doit plus avoir de communication avec la société, jusqu'à ce que la durée achevée de la peine à laquelle il a été condamné, lui donne le droit d'y rentrer, voilà l'esprit de toute peine à terme ; l'intention particulière de la peine de l'exposition, est de procurer une réparation publique du delit puni, et de provoquer dans le condamné une honte salutaire qui l'amène au repentir, Ces effets sont manqués, quand comme à présent le condamné assis commodement sur une chaise placée sur une table peu élevée, et à peine séparée du public, peut converser avec tout ce qui l'entoure : l'effet que l'on pouvoit espérer de cette exposition, pour les spectateurs, est aussi perdu. Cette facilité de communication avec le condamné pénal, est encor une violation du respect dû à la loi, dont on ne peut trop faire accompagner son exécution. — On ne pardonnera cette digression qui tient de près à mon sujet, puisque les condamnés à l'exposition, le sont toujours à une détention plus ou moins longue, et que la conduite à laquelle ils devront être soumis dans les prisons, ayant leur amendement pour objet, il est important que le premier moment de leur punition y concoure comme tous les autres.

de trouver du travail pour les prisonniers détenus dans les maisons de répression, et surtout d'en trouver un assez productif, pour fournir à leur entretien. Je ne sais, si cette difficulté est réellement aussi grande, qu'on le suppose; elle peut exister d'ailleurs, dans les maisons de répression actuelles, qui n'ont été jusqu'ici que des dépôts de mendicité, parce que. 1°. Les mendiants n'y sont enfermés que pour un tems incertain, et ordinairement très court: 2°. parce que le mendiant est, par sa nature, un homme sans industrie, sans profession, accoutumé à une vie habituelle de vagabondage, et de fainéantise: 3°. parce qu'ainsi, il faut lui trouver un travail facile, par conséquent grossier, et commun à tous les autres détenus de son espèce. Il n'en est pas de même des prisonniers condamnés pour crime, et dont la sentence ordonne un tems fixe de détention, et toujours d'une certaine durée. Beaucoup de ces hommes appartenaient précédemment à une profession dont ils peuvent exercer le travail dans la prison. Devant y passer un tems toujours assez long, ils peuvent même être formés à quelque genre d'industrie; et leur intérêt, stimulant leur activité, hâtera nécessairement leurs progrès. Des ateliers d'ouvrages différens,

peuvent et doivent être établis dans les prisons : Un travail plus grossier peut-être donné aux plus faibles, et aux moins habiles. Enfin, on peut suppléer par la mécanique, à l'inaptitude des plus mal-adroits. J'ai vu, à Londres, des machines, dont le *Cap. Benham* était l'inventeur, et qu'il avait imaginé et fait exécuter, pour fournir des moyens de travail, aux prisonniers qui seraient détenus dans une maison de repression, dont *Jeremiah Benham* son frère, auteur de plusieurs estimables ouvrages, et particulièrement d'un traité lumineux sur la Jurisprudence criminelle, avait proposé l'établissement au Gouvernement Anglais, sous le nom de *Panapicon*, à cause de la forme de la construction qu'elle devait avoir. Chaque machine était mise en activité par une roue, qui était mue par un, deux, ou trois hommes, selon leur force, et la nature de l'ouvrage. Les uns équarissaient les poutres, les sciaient en planches d'épaisseur désirée, les rabotaient et les polissaient : d'autres fendaient ces planches en tringles, y faisaient des moulures &c. : d'autres un peu plus compliquées, donnaient aux morceaux de bois qu'elles coupaient, un degré de courbure qui les rendaient propres à la construction des chaises, des tables, des meubles

de la plus entière confiance. Ils font l'ame de cet esai: c'est à leurs soins, à leur zele, c'est à leur confiance qu'en sera dû le succès: tous les moyens doivent leur en être fournis. Il semble encor qu'ils doivent être environnés de toute la considération que le Gouvernement peut leur donner. Les témoignages extérieurs n'en sont pas nécessaires à l'amour propre de l'homme vertueux, qui ne peut être déterminé à entreprendre une tâche aussi pénible et aussi méritoire, que par un amour réel pour la patrie, et pour l'humanité; il trouve dans sa conscience, dans la satisfaction profonde que lui donne la certitude du service essentiel qu'il rend à la société, la récompense qui lui suffit, et qui le met au desus de toutes les autres: mais il est nécessaire à la société de les lui donner.

Il semblerait utile qu'un comité de chacun des deux conseils, visitat cet etablissement deux à trois fois chaque année, dans tous les détails de son administration œconomique, et de police, et qu'il en rendit compte au corps législatif; que des visites plus rapprochées y fussent faites par les Ministres de la justice et de l'intérieur, qui en rendraient compte au Directoire: Enfin, le Directoire croirait-il peut-être aussi que la visite d'un de ses membres annuellement

faite, étant un temoignage autentique de l'importance attaché à cet établissement, n'y pour-
rait être que d'un grand avantage.

Ici je termine la courte exquise que je me
fais permis d'indiquer de la marche qui pour-
roit être suivie pour l'établissement de cette
prison d'essai. — L'exposé de ces idées m'a
paru propre à convaincre plus encor de la faci-
lité de cette institution, de la grande probabi-
lité, j'oserais même dire de la certitude entière
de ses succès, et par conséquent à en hâter
l'exécution. Cet établissement est la pierre an-
gulaire de la réforme si désirable de la peine
de mort dans le code criminel: il est le premier
pas nécessaire dans un nouveau système de pu-
nition des crimes, et de traitement des prison-
niers; dans cet heureux système, qui, devant
opérer l'amendement des criminels et des vi-
cieux, interesse si essentiellement l'ordre et le
bonheur de la société.

*Enfin, comme le dit le juge de paix Coq-
houn (*), il faut penser, que les criminels même les plus
atrocés, même les plus invétérés, du danger desquels
la loi doit préserver la société, que l'on regarde,
avec tant de raison, comme la portion la plus dé-*

(*) Traité de la police de Londres.

grades de l'espèce humaine , ont aussi été innocents ; que la fuite des crimes dont ils se sont souillés , est due en grande partie , à des loix mauvaises , ou à une législation imparfaite qui n'a pas assez réprimé leurs premiers écarts , ou qui les a puni avec une trop grande rigueur ; ou a un trop long séjour dans des prisons mal-conduites , qui les a corrompu davantage ; enfin , et plus qu'à toute autre cause , à un manque absolu d'éducation ; et alors , tout en abhorrant leurs crimes , tout en appelant leur punition , on sentira encor de la pitié pour ces malheureux individus : et alors , aussi , un sentiment de justice envers eux , se joindra à la considération puissante de l'intérêt de la société , pour déterminer à la poursuite des moyens d'opérer leur amendement.

Dira-t-on que le moment où la France , toujours agitée par les secousses d'une grande révolution , a encor à soutenir une guerre extérieure contre des ennemis nombreux et puissans , n'est pas une époque où l'on puisse s'occuper de l'essai dont il est ici question ? Mais ne pourrait-on pas dire plutôt , que le moment où la société est en proie à un plus grand nombre de calamités , est celui où il est le plus nécessaire et le plus urgent , de répandre sur elle

elle les biens de toute espece, généraux ou partiels qu'il est possible de lui procurer? L'époque où la morale se relâche, n'est elle pas celle encor où il faut employer plus de moyens pour la raffermir? et ceux qui croiraient que pour y travailler, on doit attendre que les causes d'agitation et de désordre soient moins multipliées, ne seroient-ils pas dans une erreur aussi réelle et plus dangereuse encor, que ceux qui voudraient remettre à la paix le travail, les soins, les opérations qui pourraient rétablir l'ordre et amener le crédit dans les finances d'une nation qui se trouverait en guerre? D'ailleurs cet essai, tout important qu'il est, n'exige pour être ordonné, ni une longue occupation, ni des soins considérables, ni même une grande dépense du gouvernement : d'ailleurs encor, l'expérience de plusieurs années dans ce premier établissement, est nécessaire pour donner la confiance de l'étendre d'avantage, de le répéter dans différens départemens : Et les succès de ces nouveaux essais, seront eux mêmes indispensables pour déterminer la réforme entière dans le code criminel. Ainsi, tout délai mis à ce premier pas dans cette carrière nécessaire à parcourir, recule d'autant l'époque toujours éloignée où la France pourra avec confiance, accomplir le

vœu qu'elle a prononcé dans la jurisprudence criminelle, d'abolir la peine de mort.

Puisse le gouvernement français être pénétré de l'importance de cet essai. L'ordre de son exécution sera promptement donné. Cette détermination l'honorera, autant que les succès dont elle sera suivie lui donneront de véritable satisfaction. Les noms des législateurs et des administrateurs qui les premiers auront prouvé à l'Europe par l'expérience, la possibilité et l'utilité de l'abolition de la peine de mort, passeront à la postérité, non pas seulement comme ceux des bienfaiteurs de leur patrie, mais comme ceux des bienfaiteurs de toute l'espèce humaine. Ils y rappelleront l'idée d'un grand nombre de malheureux, arrachés aux supplices dans tous les pays, et dans tous les siècles, pour devenir des membres utiles de la société. Quelle œuvre de sagesse, de morale, de politique, et de bienfaisance pourra jamais espérer d'obtenir une plus glorieuse récompense. (*)

(*) „ Et si cette vérité que tant d'obstacles éloignent des princes, peut parvenir jusqu'à eux, qu'ils sachent qu'elle y arrive avec les vœux secrets de tous les hommes. Que le souverain qui l'accueillera, sache, que sa gloire effacera celle des conquérans, et que l'équitable postérité placera ses pacifiques trophées au dessus de ceux des Titus, des Antonins, et des Trajans”. (BECARIA, chap. de la peine de mort.)

Il est quelques États en Europe, où les passions moins exaltées, faisant commettre moins de crimes, l'abolition de la peine de mort, et le nouveau régime des prisons qui en est le moyen, pourraient avoir lieu avec autant de sûreté, sans des essais graduels aussi prolongés, qu'ils seraient peut-être jugés nécessaires en France, en Angleterre, en Italie &c. De ce nombre sont le Danemarck, une partie de l'Allemagne, et la Hollande. Soit qu'on veuille attribuer la différence dans la manière d'être de ces peuples, à l'influence du climat ou à toute autre cause, il est certain que les caractères y sont plus calmes, les passions moins bouillantes, les mœurs plus tranquilles, plus généralement sages. En Hollande, par exemple, ni le commerce vaste et prospère qui a si longtems enrichi ses provinces, et qui dans tous les pays du monde, apporte avec les richesses, un germe presque inévitable de corruption; ni l'immigration d'un grand nombre d'étrangers arrivés de toutes les parties de l'Europe, et qui forment une grande proportion de ses habitans, ni les révolutions successives auxquelles ce pays a été si fréquemment livré, n'ont changé les mœurs, n'ont altéré les caractères. Les crimes n'y sont

pas fréquens; les crimes atroces y sont presque inconnus; et le peuple hollandais semble en core aujourd'hui, être attaché à la conservation de la moralité, qu'au maintien de ses autres anciennes habitudes. La Hollande est donc disposée à recevoir, sans danger, le bienfait de l'abolition totale de la peine de mort. Le moment y est favorable, puisque la législature s'occupe aujourd'hui de la révision de la jurisprudence criminelle. La question, trop longtemps conservée sans doute, dans ce pays, n'est enfin abolie. La sagesse, l'humanité, la justice de la législature ne se borneront pas à cette réforme salutaire. Elle examinera soigneusement la question de la peine de mort; elle se pénétrera de la nécessité de provoquer, et d'assurer l'amendement des criminels condamnés. Elle examinera, si la peine de la *Marque* ne leur impose pas presque inévitablement, la nécessité d'une mauvaise conduite pour le reste de leur vie, puisqu'elle imprime sur eux un signe durable de flétrissure qui leur rend à jamais présent le souvenir de leurs crimes, qu'il faudrait s'efforcer au contraire à leur faire oublier: car c'est le seul moyen de leur persuader que la société en a perdu la mémoire. Elle examinera si le régime actuel des maisons de force holland-

laïses opère, s'il peut même opérer une amélioration dans les mœurs, dans les habitudes des prisonniers, et elle trouvera dans la persévérance infatigable, dans le calme courageux et inaltérable qui forment les traits principaux du caractère hollandais, les moyens certains d'assurer les succès d'une institution pareille à celle des prisons de Philadelphie.

Encor une fois, je suis convaincu qu'il n'est aucun État en Europe, dans quelque situation que s'y trouve la société, où l'abolition de la peine de mort, ne puisse être prononcée, après des soins préparatoires plus ou moins longs; qu'ainsi il n'en est aucun, où ces soins préparatoires ne soient un devoir pour les gouvernemens. Mais je crois pouvoir assurer que dans aucun, les obstacles ne seront moins nombreux qu'en Hollande, et qu'ils ne peuvent être ailleurs plus facilement et plus promptement écartés.

On y pardonnera à un étranger d'hazarder cette assercion: et quand il ose exprimer ses vœux sur cette importante réforme dans la Jurisprudence criminelle Batave, on ne s'y méprendra pas, sans doute, sur ses intentions.

de toute espèce. Les jantes, les rayes, les moyeux des roues fortaient de ces machines, aussi achevés que de la main d'un bon ouvrier; elles faisaient les rainures, les mortaises, les chevilles avec une entière précision. Le *Capt. Bentham* se proposait d'en faire d'autres pour les ouvrages en fer. Il en espérait le même succès; et un seul ouvrier de dehors un peu habile, devoit suffire pour l'entretien journalier de toutes ces machines, qui pouvaient employer beaucoup d'hommes mal-adroits à un travail très profitable. De semblables inventions ne seront pas difficiles au génie actif de nos mécaniciens; mais je pense, que, même sans leur introduction, il n'est pas impossible d'employer les prisonniers à des travaux assez productifs, pour que leur entretien ne soit pas une charge publique. Il ne faut pas s'attendre à un tel résultat dans les premières années; mais l'intelligence, les soins, la persévérance des inspecteurs ne pourront manquer d'y parvenir.

La seule loi nécessaire à obtenir du Corps législatif, serait celle qui autoriserait le Directoire, à abrèger le tems de détention prononcé par la sentence, pour les prisonniers à l'amendement desquels la bonne conduite, l'assiduité au travail, &c. &c. donneraient droit de croire. Cette





THE
CONSTITUTIONS

OF THE SEVERAL

INDEPENDENT STATES

OF

A M E R I C A ;

THE

Declaration of Independence ;

THE

ARTICLES OF CONFEDERATION
BETWEEN THE SAID STATES ;

THE

TREATIES between HIS MOST CHRISTIAN MAJESTY and
the UNITED STATES of AMERICA.

PUBLISHED BY ORDER OF CONGRESS.

PHILADRLPHIA PRINTED:
LONDON REPRINTED; —

WITH AN

A D V E R T I S E M E N T

By the E D I T O R,

For J. STOCKDALE, in Piccadilly ; and sold by J. WALKER,
No. 44, in Pater-noster-Row.

M D C C L X X X I I .

3 1/2 1/2 1/2

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be clearly documented and dated to ensure transparency and accountability.

2. In the second section, the author outlines the various methods used to collect and analyze data. This includes both qualitative and quantitative approaches, highlighting the need for a systematic and unbiased process.

3. The third section details the results of the study, showing a clear trend in the data that supports the initial hypothesis. The findings are presented in a clear and concise manner, with supporting evidence provided for each point.

4. Finally, the document concludes with a summary of the key findings and their implications. It suggests that the results have significant implications for the field and offers recommendations for further research.

I N C O N G R E S S .

DECEMBER 29, 1780.

RESOLVED,

THAT a Committee of three be appointed to collect, and cause to be published, two hundred correct copies of the Declaration of Independence, the Articles of Confederation and Perpetual Union, the Alliances between these United States and his Most Christian Majesty, with the Constitutions or Forms of Government of the several States, to be bound together in boards.

The members chosen, Mr. Bee, Mr. Wither Spoon, and Mr. Wolcott.

Extract from the Minutes,

CHARLES THOMPSON, *Secretary.*

1944

1. The first part of the report deals with the general situation of the country and the progress of the war. It is a very interesting and informative account of the events of the year.

2. The second part of the report deals with the economic situation of the country. It is a very detailed and accurate account of the economic conditions of the year.

3. The third part of the report deals with the social situation of the country. It is a very thorough and comprehensive account of the social conditions of the year.

4. The fourth part of the report deals with the political situation of the country. It is a very clear and concise account of the political conditions of the year.

5. The fifth part of the report deals with the cultural situation of the country. It is a very interesting and enlightening account of the cultural conditions of the year.

6. The sixth part of the report deals with the military situation of the country. It is a very detailed and accurate account of the military conditions of the year.

7. The seventh part of the report deals with the foreign relations of the country. It is a very thorough and comprehensive account of the foreign relations of the year.

8. The eighth part of the report deals with the internal affairs of the country. It is a very clear and concise account of the internal affairs of the year.

9. The ninth part of the report deals with the education of the country. It is a very interesting and enlightening account of the education of the year.

10. The tenth part of the report deals with the health of the country. It is a very detailed and accurate account of the health of the year.

11. The eleventh part of the report deals with the labor situation of the country. It is a very thorough and comprehensive account of the labor situation of the year.

12. The twelfth part of the report deals with the housing situation of the country. It is a very clear and concise account of the housing situation of the year.

13. The thirteenth part of the report deals with the transportation situation of the country. It is a very interesting and enlightening account of the transportation situation of the year.

14. The fourteenth part of the report deals with the communication situation of the country. It is a very detailed and accurate account of the communication situation of the year.

15. The fifteenth part of the report deals with the energy situation of the country. It is a very thorough and comprehensive account of the energy situation of the year.

16. The sixteenth part of the report deals with the environment situation of the country. It is a very clear and concise account of the environment situation of the year.

17. The seventeenth part of the report deals with the science and technology situation of the country. It is a very interesting and enlightening account of the science and technology situation of the year.

18. The eighteenth part of the report deals with the arts and culture situation of the country. It is a very detailed and accurate account of the arts and culture situation of the year.

19. The nineteenth part of the report deals with the sports situation of the country. It is a very thorough and comprehensive account of the sports situation of the year.

20. The twentieth part of the report deals with the recreation situation of the country. It is a very clear and concise account of the recreation situation of the year.

21. The twenty-first part of the report deals with the tourism situation of the country. It is a very interesting and enlightening account of the tourism situation of the year.

22. The twenty-second part of the report deals with the international relations situation of the country. It is a very detailed and accurate account of the international relations situation of the year.

23. The twenty-third part of the report deals with the global situation of the country. It is a very thorough and comprehensive account of the global situation of the year.

24. The twenty-fourth part of the report deals with the future of the country. It is a very clear and concise account of the future of the country.

T H E

EDITOR'S ADVERTISEMENT.

AFTER the Colonies of North America had completely renounced their allegiance to the Mother-Country, by their solemn *Declaration of Independence*, in the month of July 1776, each of the States into which they were then divided, adopted different forms of independent governments, besides entering into a general treaty of confederation and union. These plans of new governments were completed at different times by the different States; a final sanction having been given sooner by some to that form which they chose to adopt, and later by others: thus, the constitution of the Colony of Massachusetts was not finally settled till the month of March 1780. The same difference in point of time also took place in regard to the respective accessions of the new American States to the general treaty of confederation; the Colony of Maryland, for instance, having only acceded to it in the same month of March 1780, that is, about four years after the *Declaration of Independence*. To these circumstances it is very probably owing, that no Collection containing the above new Constitutions, together, with the general treaty between the United States of North America, was for a long time published. At last, on the 29th of December
1780,

1780, that is, about eighteen months ago, an order was issued by the Congress for printing correct copies of the above pieces. Why the Congress directed a small number to be published, is not said; only two hundred copies are expressed in their order, which were distributed, some months ago, to the principal men in America, and a few were sent over to Europe. One of these copies having fallen into the Editor's hands, he thinks the reprinting of it will not prove unacceptable to the Public, as the Collection here mentioned may be considered as the *Magna Charta* of the United American States, as the code of their fundamental laws, and, in short, the book which the opposite parties among them will at all times claim in some shape or other, and the knowledge of which is therefore necessary to such persons as wish to understand the present or future internal American politics.

In framing their respective Constitutions, each Colony has followed its own particular views; from which it has resulted that their Governments are all different from one another. In the Colony of Pennsylvania, for instance, they have especially directed their endeavours, not only towards establishing public frugality, but also towards preventing too much power of any kind falling into the hands of any individual; while the Colony of Massachusetts have shewn in that respect much greater confidence, and have allowed the *Governor* of their *Commonwealth* a degree of power at least equal to that possessed by the Stadtholder, in the Dutch Government: only, he is to be chosen annually. In regard to the State of Rhode Island, as they already formed, before the American Revolution, a kind of independent

independent Republic; through the cession that had been made by Charles the Second to their *Governor and Company*, of all powers legislative, executive, and judicial, they have continued to admit their original Charter as the rule of their Government; and it has accordingly been inserted among the Constitutions of the other United States.

It may be remarked, in respect to the American Republican Governments, that they differ in two very essential points from the ancient Grecian and Italian Commonwealths, as well as from the modern European ones, which were all framed on the model of these: One, is the circumstance of the People being *represented*, in the new American Republics; and the other, is the division of the Legislature into two distinct separate bodies, that takes place in them, and which they have adopted, as well as many other essential regulations, from the British form of Government.

The precedency among the different American States, like that which obtains among the Helvetic Cantons and the Dutch Provinces, has not been settled from their respective degrees of power and importance, but from the time of their existence, and the dates of their charter. The Treaty of perpetual Confederation between them, which is inserted in this book, may be considered as the law, or code, by which the United States are intended to be consolidated into one common Republic; and as the different particular Constitutions are to govern the different respective States, so the Treaty is the Constitution, or mode of Government, for the collective North-American Commonwealth. The
copy

copy of this Treaty, which is the most interesting part of the Collection, has accordingly been placed at the beginning of this new edition, together with the *Declaration of Independence*, which may be considered as the ground-work of the whole present American political system. This disposition, which is that expressed in the order issued by the Congress, is also the most natural; and it has been rather improperly that the Committee appointed to form the Collection, have inserted these two pieces at the end of the book.

June 15, 1782.

IN CONGRESS,

JULY 4, 1776.

A
DECLARATION

BY THE
REPRESENTATIVES

OF THE
UNITED STATES OF AMERICA,
IN CONGRESS ASSEMBLED.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing inva-

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DECLARATION OF INDEPENDENCE.

riably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great-Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the mean time exposed to all the danger of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither; and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

DECLARATION OF INDEPENDENCE.

For quartering large bodies of armed troops among us :
For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states :

For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offences :

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms : our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting to our British brethren. We have warned them from time to time of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have

DECLARATION OF INDEPENDENCE.

been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, FREE and INDEPENDENT STATES; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great-Britain is, and ought to be, totally dissolved; and that as Free and Independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honour.

JOHN HANCOCK.

NEW-HAMPSHIRE,

{ *Josiah Bartlett,*
William Whipple,
Matthew Thornton,

MASSACHUSETTS-BAY,

{ *Samuel Adams,*
John Adams,
Robert Treat Paine,
Elbridge Gerry.

RHODE-ISLAND, &c.

{ *Stephen Hopkins,*
William Ellery.

CONNECTICUT,

{ *Roger Sherman,*
Samuel Huntington,
William Williams,
Oliver Wolcott.

NEW-YORK,

{ *William Floyd,*
Philip Livingston,
Francis Lewis,
Lewis Morris.

NEW-JERSEY,

{ *Richard Stockton,*
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark,

PENNSYLVANIA,

PENNSYLVANIA,	<i>Robert Morris,</i> <i>Benjamin Rush,</i> <i>Benjamin Franklin,</i> <i>John Morton,</i> <i>George Clymer,</i> <i>James Smith,</i> <i>George Taylor,</i> <i>James Wilson,</i> <i>George Ross.</i>
DELAWARE,	<i>Cæsar Rodney,</i> <i>George Read.</i>
MARYLAND,	<i>Samuel Chase,</i> <i>William Paca,</i> <i>Thomas Stone,</i> <i>Charles Carroll, of Carrollton.</i>
VIRGINIA,	<i>George Wythe,</i> <i>Richard Henry Lee,</i> <i>Thomas Jefferson,</i> <i>Benjamin Harrison,</i> <i>Thomas Nelson, jun.</i> <i>Francis Lightfoot Lee,</i> <i>Carter Braxton.</i>
NORTH-CAROLINA,	<i>William Hooper,</i> <i>Joseph Hewes,</i> <i>John Penn.</i>
SOUTH-CAROLINA,	<i>Edward Rutledge,</i> <i>Thomas Hayward, jun.</i> <i>Thomas Lynch, jun.</i> <i>Arthur Middleton.</i>
GEORGIA,	<i>Button Gwinnett,</i> <i>Lyman Hall,</i> <i>George Walton.</i>

A R T I C L E S
O F
CONFEDERATION AND PERPETUAL UNION
B E T W E E N

The States of *New-Hampshire, Massachusetts-Bay, Rhode-Island, and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia.*

Article I. **T**HE title of this confederacy shall be, "*United States of America.*"

Art. II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the united states in congress assembled.

Art. III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Art. IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state of which the owner is an inhabitant; provided also that no imposition, duties, or restriction, shall be laid by any state on the property of the united states, or either of them.

If any person guilty of or charged with treason, felony, or other high-misdemeanour in any state, shall flee from justice, and be found in any of the united states, he shall, upon demand of the *governor or executive power of the state from which he fled, be delivered*

ARTICLES OF CONFEDERATION.

3

delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Art. V. For the more convenient management of the general interests of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November of every year, with a power reserved to each state to recal its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No state shall be represented in congress by less than two, nor more than seven, members; and no person shall be capable of being a delegate for more than three years, in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or any other for his benefit, receives any salary, fees, or emolument, of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the united states in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress, and the members of congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

Art. VI. No state, without the consent of the united states in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the united states in congress assembled, or any of them, grant any title of nobility.

2. No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the united states in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

3. No state shall lay any imposts or duties which may interfere with any stipulations in treaties, entered into by the united states in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

4 No

4. No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the united states in congress assembled for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only as in the judgement of the united states in congress assembled shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

5. No state shall engage in any war without the consent of the united states in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the united states in congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united states in congress assembled, and then only against the kingdom or state and the subjects thereof against which war has been so declared, and under such regulations as shall be established by the united states in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united states in congress assembled shall determine otherwise.

Art. VII. When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

Art. VIII. All charges of war, and all other expences that shall be incurred for the common defence or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the united states in congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.

Art. IX. The united states in congress assembled shall have the sole and exclusive right and power of determining on peace and

war,

ARTICLES OF CONFEDERATION. 9

war, except in the cases mentioned in the sixth article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

2. The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following.—Whenever the legislative or executive authority or lawful agent of any state in controversy with another, shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct, shall in the presence of congress be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without shewing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse

to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress, for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection, or hope of reward:" provided also, that no state shall be deprived of territory for the benefit of the united states.

3. All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the congress of the united states, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

4. The united states in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the united states; regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating post-offices from one state to another, throughout all the united states, and exacting such postage on the papers passing through the same, as may be requisite to defray the expences of the said office; appointing all officers of the land forces in the service of the united states, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states; making rules for the government and regulation of the said land and naval forces, and directing their operations.

5. The united states in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated, *A Committee of the States*, and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction; to appoint one of their number to preside, provided that no person be allowed to serve

serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expences; to borrow money or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and cloath, arm, and equip them in a foldier-like manner, at the expence of the united states; and the officers and men so cloathed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled: but if the united states in congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed, and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, cloath, arm, and equip, as many of such extra number as they judge can be safely spared; and the officers and men so cloathed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled.

6. The united states in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expences necessary for the defence and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: Nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the united states in congress assembled.

7. The congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to

treaties, alliances, or military operations, as in their judgement require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Art. X. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united states in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states, in the congress of the united states assembled, is requisite.

Art. XI. Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into, and entitled to all the advantages of this union: But no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

Art. XII. All bills of credit emitted, monies borrowed, and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states and the public faith are hereby solemnly pledged.

Art. XIII. Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

AND WHEREAS it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union: **KNOW YE**, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. **And we do further solemnly plight and engage the faith of our respective**

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pective constituents, that they shall abide by the determinations of the united states in congress assembled, on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual: IN WITNESS whereof, we have hereunto set our hands in congress.

DONE at Philadelphia, in the state of Pennsylvania, the 9th day of July, in the year of our Lord, 1778, and in the third year of the independence of America.

The aforesaid articles of confederation were finally ratified on the first day of March 1781; the state of Maryland having, by their members in congress, on that day acceded thereto, and completed the same.

NEW-HAMPSHIRE, { *Josiah Bartlett,*
John Wentworth, jun.

MASSACHUSETTS-BAY, { *John Hancock,*
Samuel Adams,
Elbridge Gerry,
Francis Dana,
James Lovell,
Samuel Holten.

RHODE-ISLAND, &c. { *William Ellery,*
Henry Merchant,
John Collins.

CONNECTICUT, { *Roger Sherman,*
Samuel Huntington,
Oliver Walcott,
Titus Hosmer,
Andrew Adams.

NEW-YORK, { *James Duane,*
Francis Lewis,
William Duer,
Gouverneur Morris.

NEW JERSEY, { *John Wilberforce,*
Nathaniel Scudder.

PENNSYLVANIA,	{ <i>Robert Morris,</i> <i>Daniel Roberdeau,</i> <i>Jonathan Bayard Smith,</i> <i>William Clingan,</i> <i>Joseph Reed.</i>
DELAWARE,	{ <i>Thomas M^cKean,</i> <i>John Dickinson,</i> <i>Nicholas Vandyke.</i>
MARYLAND,	{ <i>John Hanson,</i> <i>Daniel Carroll.</i>
VIRGINIA,	{ <i>Richard Henry Lee,</i> <i>John Banister,</i> <i>Thomas Adams,</i> <i>John Harvey,</i> <i>Francis Lightfoot Lee.</i>
NORTH-CAROLINA,	{ <i>John Penn,</i> <i>Cornelius Harnett,</i> <i>John Williams.</i>
SOUTH-CAROLINA,	{ <i>Henry Laurens,</i> <i>William Henry Drayton,</i> <i>John Matthews,</i> <i>Richard Hutson,</i> <i>Thomas Heyward, jun.</i>
GEORGIA,	{ <i>John Walton,</i> <i>Edward Telfair,</i> <i>Edward Longworth.</i>

A
C O L L E C T I O N
O F T H E
C O N S T I T U T I O N S
O F T H E
T H I R T E E N
U N I T E D S T A T E S , &c.

NEW-HAMPSHIRE.

In CONGRESS, at EXETER, Jan. 5, 1776.

WE, the members of the congress of the colony of New-Hampshire, chosen and appointed by the free suffrages of the people of said colony, and authorized and impowered by them to meet together, and use such means, and pursue such measures, as we shall judge best for the public good; and in particular to establish some form of government, provided that measure should be recommended by the Continental Congress; and a recommendation to that purpose having been transmitted to us from the said Congress; have taken into our serious consideration the unhappy circumstances into which this colony is involved, by means of many grievous and oppressive acts of the British Parliament, depriving us of our native and constitutional rights and privileges; to enforce obedience to which acts, a powerful fleet and army have been sent into this country, by the ministry of Great Britain, who have exercised a wanton and cruel abuse of their power, in destroying the lives and properties of the colonists, in many places, with fire and sword, taking the ships and lading from many of the honest and industrious inhabitants of this colony, employed in commerce, agreeable to the laws and customs a long time used here:

The

The sudden and abrupt departure of his excellency John Wentworth, esq. our late governor, and several of the council, leaving us destitute of legislation; and no executive courts being open to punish criminal offenders, whereby the lives and properties of the honest people of this colony are liable to the machinations and evil designs of wicked men:

Therefore, for the preservation of peace and good order, and for the security of the lives and properties of the inhabitants of this colony, we conceive ourselves reduced to the necessity of establishing a Form of Government, to continue during the present unhappy and unnatural contest with Great-Britain; protesting and declaring, that we never sought to throw off our dependence upon Great-Britain, but felt ourselves happy under her protection, while we could enjoy our constitutional rights and privileges—and that we shall rejoice, if such a reconciliation between us and our parent state can be effected as shall be approved by the Continental Congress, in whose prudence and wisdom we confide.

Accordingly, pursuant to the trust reposed in us, we do Resolve, that this congress assume the name, power, and authority of a House of Representatives or Assembly, for the colony of New-Hampshire: and that said house then proceed to choose twelve persons, being reputable freeholders, and inhabitants within this colony, in the following manner, *viz.* five in the county of Rockingham, two in the county of Strafford, two in the county of Hillsborough, two in the county of Cheshire, and one in the county of Grafton, to be a distinct and separate branch of the legislature, by the name of a council for this colony, to continue as such until the third Wednesday in December next; any seven of whom to be a quorum to do business.

That such council appoint their President; and in his absence, that the senior councillor preside.

That a Secretary be appointed by both branches, who may be councillor, or otherwise, as they shall choose.

That no act or resolve be valid, and put into execution, unless agreed to and passed by both branches of the legislature.

That all public officers for the said colony, and each county, for the current year, be appointed by the council and assembly, except the several clerks of the executive courts, who shall be appointed by the Justices of the respective courts.

That all bills, resolves, or votes for raising, levying and collecting money, originate in the house of representatives.

That at any sessions of the council and assembly, neither branch shall adjourn for any longer time than from Saturday till the next Monday, without consent of the other.

And it is further Resolved, That if the present unhappy dispute with Great-Britain should continue longer than this present year, and the Continental Congress give no instructions or

directions

CONSTITUTION OF NEW HAMPSHIRE. 17

directions to the contrary, the council be chosen by the people of each respective county, in such manner as the council and house of representatives shall order.

That general and field officers of the militia, on any vacancy, be appointed by the two houses, and all inferior officers be chosen by the respective companies.

That all officers of the army be appointed by the two houses, except they should direct otherwise in case of any emergency.

That all civil officers for the colony and for each county be appointed, and the time of their continuance in office be determined, by the two houses, except clerks, and county treasurers, and recorders of deeds.

That a treasurer, and a recorder of deeds, for each county be annually chosen, by the people of each county respectively; the votes for such officers to be returned to the respective courts of general sessions of the peace, in the county, there to be ascertained, as the council and assembly shall hereafter direct.

That precepts, in the name of the council and assembly, signed by the president of the council, and speaker of the house of representatives, shall issue annually, at or before the first day of November, for the choice of a council, and house of representatives, to be returned by the third Wednesday in December then next ensuing, in such manner as the council and assembly shall hereafter prescribe.

In the HOUSE of REPRESENTATIVES, September 19, 1776.

Voted and Resolved,

THAT as any new towns or settlements in this state, shall increase in their number of inhabitants from year to year, or from time to time, precepts shall issue for their sending delegates to council and assembly, so as to be fully represented, according to their numbers, proportionable with other parts of the state.

Sent up for Concurrence,

P. WHITE, *Speaker.*

In COUNCIL, Eodem Die

Read and Concurred.

E. THOMPSON, *Secretary.*

Copy examined, per E. THOMPSON, Secretary.

M A S S A C H U S E T T S.

A

C O N S T I T U T I O N, or F R A M E of G O V E R N M E N T,
*agreed upon by the Delegates of the People of the State of
 Massachusetts-Bay, in C O N V E N T I O N, begun and held at
 Cambridge, on the First of September, 1779, and continued by
 Adjournments to the Second of March, 1780.*

P R E A M B L E.

THE end of the institution, maintenance and administration of government, is to secure the existence of the body-politic, to protect it, and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural right, and the blessings of life: And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body-politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of his providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprize, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring his direction in so interesting a design, DO agree upon, ordain, and establish, the following *Declaration of Rights*, and *Frame of Government*, as the C O N S T I T U T I O N of the COMMONWEALTH of MASSACHUSETTS.

P A R T

P A R T I.

*A DECLARATION of RIGHTS,
of the Inhabitants of the Commonwealth of Massachusetts.*

Art. I. **A**LL men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the Universe. And no subject shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorise and require, and the legislature shall, from time to time, authorise and require the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expence, for the institution of the public worship of God, and for the support and maintenance of public protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects, an attendance upon the instructions of the public teachers as aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided notwithstanding, that the several towns, parishes, precincts, and other bodies-politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

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And all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised.

And every denomination of Christians demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: And no subordination of any one sect or denomination to another shall ever be established by law.

IV. The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do, and for ever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, or corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honour, or private interest of any one man, family, or class of men: Therefore, the people alone have an incontestible, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those, who are vested with authority from becoming oppressors, the people have a right, at such periods, and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places, by certain and regular elections and appointments.

IX. All elections ought to be free, and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected for public employments.

X. Each

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X. Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expence of this protection; to give his personal service, or an equivalent, when necessary: But no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people: In fine, the people of this commonwealth are not controulable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in a warrant to a civil officer, to make search in all suspected places, or to arrest one or more suspected persons, or to seize their property; be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued, but in cases and with the formalities prescribed by the laws.

XV. In all controversies concerning property, and in all suits
between

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between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by a jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XVI. The liberty of the press is essential to the security of freedom in a state; it ought not, therefore, to be restrained in this commonwealth.

XVII. The people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature, and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: And they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of all laws necessary for the good administration of the commonwealth.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action, or complaint, in any other court or place whatsoever.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

XXIV. Laws

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishment.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent, as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honourable salaries, ascertained and established by standing laws.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end, it may be a government of laws, and not of men.

P A R T II.

The FRAME of GOVERNMENT.

THE people inhabiting the territory formerly called the Province of Massachusetts-Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body-politic or state, by the name of, *The COMMONWEALTH of MASSACHUSETTS.*

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION I.

The GENERAL COURT.

Art. I. THE department of legislation shall be formed by two branches, a *Senate*, and *House of Representatives*; each of which shall have a negative on the other.

The legislative body shall assemble every year on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May; and shall be styled, *The General Court of Massachusetts*.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revial; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in which sever the same shall have originated; who shall enter the objections sent down by the governor at large on their records, and proceed to reconsider the said bill or resolve: But if after such reconsideration, two-thirds of the said senate or house of representatives shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, it shall have the force of a law: But in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for or against the said bill or resolve, shall be entered upon the public records of the commonwealth.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes, and things whatsoever, arising or happening within the commonwealth,

wealth, or between or concerning persons inhabiting, or residing, or brought within the same; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon: To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandizes, and commodities whatsoever, brought into, produced, manufactured, or being within the same, to be issued and disposed of by warrant under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised; in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth taken anew once in every ten years at the least, and as much oftener as the general court shall order.

C H A P. I. S E C T. II.

S E N A T E.

Art. I. THERE shall be annually elected by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may from time to time be divided by the general court for that purpose. And the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth, the limits of each district, and the number of councillors and senators to be chosen therein; provided that the number of such districts shall be never less than thirteen; and that no district be so large as to entitle the same to chuse more than six senators.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for choice of councillors and senators (except that the counties of Dukes-county and Nantucket shall form one district for that purpose), and shall elect the following number for councillors and senators, viz.

Suffolk	Six	York	Two.
Essex	Six	Dukes-county	} One
Middlesex	Five	and Nantucket	
Hampshire	Four	Worcester	Five
Plymouth	Three	Cumberland	One
Barnstable	One	Lincoln	One
Bristol	Three	Berkshire	Two

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz. There shall be a meeting on the first Monday in April annually, forever, of the inhabitants of each town in the several counties of this commonwealth; to be called by the select men, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be senators and councillors: And at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right

right to give in his vote for the senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant," in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office or place within this state, in that town, district, or plantation, where he dwelleth, or hath his home.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town-meeting, and in presence of the town-clerk, who shall make a fair record, in presence of the selectmen, and in open town-meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town-clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription expressing the purports of the contents thereof, and delivered by the town-clerk of such towns to the sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May annually; or it shall be delivered into the secretary's office seventeen days at least before the said last Wednesday in May; and the sheriff of each county shall deliver all such certificates by him received into the secretary's office seventeen days before the said last Wednesday in May.

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be impowered or required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually on the same first Monday in April, at such place in the plantations respectively as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town-clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators, in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose accordingly.

III. And that there may be a due convention of senators on the last Wednesday in May annually, the governor and five of the council for the time being shall, as soon as may be, examine the returned copies of such records; and fourteen days before the

said day he shall issue his summons to such persons as shall appear to be chosen by the majority of voters, to attend on that day and take their seats accordingly; provided nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

IV. The senate shall be the final judge of the elections, returns, and qualifications of their own members, as pointed out in the constitution; and shall, on the said last Wednesday in May annually, determine and declare who are elected by each district to be senators by a majority of votes: and in case there shall not appear to be the full number of senators elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.

V. Provided nevertheless, that no person shall be capable of being elected as a senator, who is not seized in his own right of a freehold within this commonwealth of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and at the time of his election he shall be an inhabitant in the district for which he shall be chosen.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

VII. The senate shall chuse its own president, appoint its own officers, and determine its own rules of proceedings.

VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment, the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however,

however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honour, trust, or profit, under this commonwealth: But the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX. Not less than sixteen members of the senate shall constitute a quorum for doing business,

CHAP. I. SECT. III.

HOUSE OF REPRESENTATIVES.

Art. I. THERE shall be in the legislature of this commonwealth a representation of the people, annually elected, and founded upon the principle of equality.

II. And in order to provide for a representation of the citizens of this commonwealth, founded on the principle of equality, every corporate town containing one hundred and fifty rateable polls, may elect one representative: Every corporate town containing three hundred and seventy-five rateable polls, may elect two representatives: Every corporate town, containing six hundred rateable polls, may elect three representatives; and proceeding in that manner, making two hundred and twenty-five rateable polls the mean increasing number for every additional representative.

Provided nevertheless, that each town now incorporated, not having one hundred and fifty rateable polls, may elect one representative: But no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same, one hundred and fifty rateable polls.

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to chuse and return members to the same, agreeably to this constitution.

The expenses of travelling to the general assembly, and returning home once in every session and no more, shall be paid by the government out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

III. Every member of the house of representatives shall be chosen by written votes; and for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any rateable estate to the value of two hundred pounds; and he shall

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cease to represent the said town, immediately on his ceasing to be qualified as aforesaid.

IV. Every male person, being twenty one years of age, and resident in any particular town in this commonwealth, for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.

V. The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

VII. All money-bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

VIII. The house of representatives shall have power to adjourn themselves, provided such adjournment shall not exceed two days at a time.

IX. Not less than sixty members of the house of representatives shall constitute a quorum for doing business.

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall chuse their own speaker, appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behaviour in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; and who shall assault or arrest any witness or other person ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

XI. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases. Provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above-described offences, be for a term exceeding thirty days.

And

And the senate and house of representatives may try, and determine, all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

C H A P T E R II.

E X E C U T I V E P O W E R.

SECTION I.

G O V E R N O R.

Art. I. THERE shall be a supreme executive magistrate, who shall be stiled; *The Governor of the Commonwealth of Massachusetts*; and whose title shall be, *His Excellency*.

II. The governor shall be chosen annually: And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; and unless he shall, at the same time, be seized in his own right of a freehold within the commonwealth of the value of one thousand pounds; and unless he shall declare himself to be of the Christian religion.

III. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town-clerk, in the presence, and with the assistance of the selectmen, shall, in open town-meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday in May; and the sheriff shall transmit the same to the secretary's office; seventeen days at least before the said last Wednesday in May; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate, and the house of representatives, on the last Wednesday in May, to be by them examined: And in case of an election by the majority of all

the votes returned, the choice shall be by them declared and published: But if no person shall have a majority of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor, with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution, and the laws of the land.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same, to any time the two houses shall desire; and to dissolve the same, on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same, from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same: And in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the state.

And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment, or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

VII. The governor of this commonwealth, for the time being, shall be the commander in chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy, and for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill,
slay,

slay, and destroy, if necessary, and conquer, by all fitting ways, enterprizes, and means whatsoever, all and every such person and persons, as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be entrusted with all these and other powers, incident to the offices of captain-general and commander in chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water for the defence of such part of the state to which they cannot otherwise conveniently have access.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of the council: But no charter of pardon, granted by the governor, with advice of the council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

IX. All judicial officers, the attorney-general, the solicitor-general, all sheriffs, coroners, and registers of probate, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

X. The captains and subalterns of the militia shall be elected by the written votes of the train band and alarm list of their respective companies, of twenty-one years of age and upwards: The field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments: The brigadiers shall be elected in like manner; by the field officers of their respective brigades: And such officers, so elected,

shall be commissioned by the governor, who shall determine their rank.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor the officers elected.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

And if the electors of brigadiers, field officers, captains, or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.

XI. No monies shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurers notes, or for the payment of interests arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small-arms with their accoutrements, and of all other public property

whatever under their care respectively ; distinguishing the quantity, number, quality and kind of each, as particularly as may be ; together with the condition of such forts and garrisons : And the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, dispatches, and intelligence of a public nature, which shall be directed to them respectively.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court, by a dependance on them for his support---that he should in all cases act with freedom for the benefit of the public---that he should not have his attention necessarily diverted from that object to his private concerns---and that he should maintain the dignity of the commonwealth in the character of its chief magistrate---it is necessary that he should have an honourable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws : And it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Permanent and honourable salaries shall also be established by law for the justices of the supreme judicial court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged as the general-court shall judge proper.

CHAP. II. SECT. II.

LIEUTENANT-GOVERNOR.

Art. I. THERE shall be annually elected a Lieutenant-Governor of the commonwealth of Massachusetts, whose title shall be, *His Honour* ; and who shall be qualified, in point of religion, property, and residence in the commonwealth, in the same manner with the governor : And the day and manner of his election, and the qualifications of the electors shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner : And if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the

governor is to be elected, in case no person shall have a majority of the votes of the people to be governor.

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council : And the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor for the time being shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities which by this constitution the governor is vested with, when personally present.

C H A P. II. S E C T. III.

COUNCIL, and the Manner of settling Elections by the Legislature.

Art. I. THERE shall be a council for advising the governor in the executive part of government, to consist of nine persons besides the lieutenant-governor, whom the governor for the time being shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

II. Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room : And in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large ; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.

III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

IV. Not more than two councillors shall be chosen out of any one district of this commonwealth.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present ; and this record

may be called for at any time by either house of the legislature; and any member of the council may insert his opinion contrary to the resolution of the majority.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall during such vacancy have full power and authority to do, and execute, all and every such acts, matters and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they or either of them were personally present.

VII. And whereas the elections appointed to be made by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: The vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two Houses shall proceed to the election of the council.

CHAP. II. SECT. IV.

Secretary, Treasurer, Commissary, &c.

Art. I. THE secretary, treasurer and receiver-general, and the commissary-general, notaries-public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives, in one room. And that the citizens of this commonwealth may be assured, from time to time, that the monies remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable, and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

Art. I. THE tenure that all commission officers shall by law have in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void in the term of seven years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require. And the legislature shall, from time to time, hereafter appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

V. All causes of marriage, divorce and alimony, and all appeals from the judges of probate shall be heard and determined by the governor and council, until the legislature shall by law make other provision.

CHAPTER IV.

DELEGATES TO CONGRESS.

THE delegates of this commonwealth to the Congress of the United States shall, some time in the month of June annually,
be

be elected by the joint ballot of the senate and house of representatives, assembled together in one room, to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

C H A P T E R V.

*The University at Cambridge, and Encouragement of Literature,
 &c.*

S E C T I O N I.

The U N I V E R S I T Y.

Art. I. WHEREAS our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences which qualified them for public employments, both in church and state: And whereas the encouragement of arts and sciences, and all good literature, tends to the honour of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America:—It is declared, that the *President and Fellows of Harvard College*, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy: And the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

II. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College, in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college, by some other description, under several charters successively: It is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president
 and

and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors.

III. And whereas, by an act of the general court of the colony of Massachusetts-Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College: And it being necessary, in this new constitution of government, to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates: It is declared, that the governor, lieutenant-governor, council, and senate of this commonwealth, are, and shall be deemed their successors; who, with the president of Harvard College for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining, to the overseers of Harvard College; provided, that nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late province of the Massachusetts-Bay.

C H A P. V. S E C T. II.

The Encouragement of Literature.

WISDOM and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education, in the various parts of the country, and among the different orders of the people, it shall be the duty of the legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private, charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humour, and all social affections, and generous sentiments among the people.

C H A P T E R VI.

Oaths and Subscriptions ; Incompatibility of and Exclusion from Offices ; Pecuniary Qualifications ; Commissions ; Writs ; Confirmation of Laws ; Habeas Corpus ; The Enacting Style ; Continuance of Officers ; Provision for a future Revival of the Constitution, &c.

Art. I. Any person chosen governor, or lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.

“ I, A. B. do declare, that I believe the Christian religion, and have a firm persuasion of its truth ; and that I am seized and possessed, in my own right, of the property required by the constitution as one qualification for the office or place to which I am elected.”

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration in the presence of the two houses of assembly ; and the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution, and forever afterwards before the governor and council for the time being.

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.

“ I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent state ; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever : - And that I do renounce and abjure all allegiance, subjection, and obedience, to the king, queen, or government of Great Britain (as the case may be), and every other foreign power whatsoever : And that no foreign prince, person, prelate, state or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence,

nence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this commonwealth, except the authority or power which is or may be vested by their constituents in the Congress of the United States. And I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgement, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation, whatsoever. So help me God."

"I, A. B. do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____ according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, and the laws of this commonwealth. So help me God."

Provided always, that when any person chosen or appointed as aforesaid shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath; and in the second oath, the words, "*swear and;*" and in each of them the words, "*So help me God;*" substituting instead thereof, "*This I do under the pains and penalties of perjury.*"

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being: and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place under the authority of this commonwealth, except such as by this constitution they are admitted to hold; saving that the judges of the said court may hold the offices of justices of the peace throughout the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

No person shall be capable of holding or exercising at the same time more than one of the following offices within this state,

viz.

CONSTITUTION OF MASSACHUSETTS. 45

viz judge of probate, sheriff, register of probate, or register of deeds; and never more than any two offices which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the office of justice of the peace excepted, shall be held by one person,

No person holding the office of judge of the supreme judicial court, secretary, attorney-general, solicitor-general, treasurer or receiver-general, judge of probate, commissary-general; president, professor, or instructor of Harvard College; sheriff, clerk of the house of representatives, register of probate, register of deeds, clerk of the supreme judicial court, clerk of the inferior court of common-pleas, or officer of the customs, including in this description naval officers, shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives, and the place so vacated shall be filled up.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

III. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight-pence per ounce: and it shall be in the power of the legislature from time to time to increase such qualifications, as to property of the persons to be elected into offices, as the circumstances of the commonwealth shall require.

IV. All commissions shall be in the name of the commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

V. All writs issuing out of the clerk's office in any of the courts of law shall be in the name of the commonwealth of Massachusetts: they shall be under the seal of the court from whence they issue: they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

VI. All the laws which have heretofore been adopted, used and approved in the province, colony, or state of Massachusetts-Bay, and usually practised on in the courts of law, shall still remain

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main and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

VII. The privilege and benefit of the writ of habeas-corpus shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature; except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

VIII. The enacting style in making and passing all acts, statutes, and laws, shall be, "Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same."

IX. To the end there may be no failure of justice, or danger arise to the commonwealth from a change of the form of government—all officers, civil and military, holding commissions under the government and people of Massachusetts-Bay in New-England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead: And all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies, and powers, shall continue in full force, in the enjoyment and exercise of all their trusts, employments, and authority, until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers and authority.

X. In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

And if it shall appear by the returns made, that two-thirds of the qualified voters throughout the state who shall assemble and vote in consequence of the said precepts are in favour of such revision and amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several

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veral towns to elect delegates to meet in convention, for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws.

JAMES BOWDOIN, PRESIDENT.

Attest. SAMUEL BARRET, *Secretary.*

R H O D E-

R H O D E - I S L A N D .

RHODE-ISLAND CHARTER, *granted by King Charles II. in the Fourteenth Year of his Reign.*

Quintadecima pars Patentium Anno Regni Regis Caroli Secundi Quintodecimo.

CHARLES the Second, by the grace of God, &c. To all to whom these presents shall come, greeting. Whereas we have been informed by the petition of our trusty and well beloved subjects, John Clarke, on the behalf of Benedict Arnold, William Brenton, William Codrington, Nicholas Easton, William Boulston, John Porter, John Smith, Samuel Gorton, John Weekes, Roger Williams, Thomas Olney, Gregory Dexter, John Cogeshall, Joseph Clarke, Randall Houlden, John Greene, John Roome, Samuel Wildbore, William Field, James Barker, Richard Tew, Thomas Harris, and William Dyre, and the rest of the purchasers, and free inhabitants of our island called Rhode-Island, and the rest of the colony of Providence Plantations; in the Narraganset-Bay in New England in America, That they, pursuing with peace and loyal minds their sober, serious, and religious intentions, of godly edifying themselves and one another in the holy Christian faith and worship as they were persuaded, together with the gaining over and conversion of the poor ignorant Indian natives in those parts of America to the sincere profession and obedience of the same faith and worship, did not only by the consent and good encouragement of our royal progenitors; transport themselves out of this kingdom of England into America; but also since their arrival there, after their first settlement among other our subjects in those parts, for the avoiding of discord and those many evils which were likely to ensue upon those our subjects not being able to bear in those remote parts their different apprehensions in religious concerns; and in pursuance of the aforesaid ends did once again leave their desirable stations and habitations, and with excessive labour and travail, hazard and charge, did transplant themselves into the midst of the Indian natives, who, as we are informed, are the most potent princes and people of all that country; where, by the good providence of God (from whom *the plantations* have taken their name) upon their labour and industry,

dustry, they have not only been preserved to admiration, but have increased and prospered, and are seized and possessed, by purchase and consent of the said natives, to their full content, of such lands, islands, rivers, harbours, and roads, as are very convenient both for plantations, and also for building of ships, supply of pipe-staves, and other merchandise, and which lye very commodious in many respects for commerce, and to accommodate our southern plantations, and may much advance the trade of this our realm, and greatly enlarge the territories thereof; they having, by near neighbourhood to, and friendly society with, the great body of the Narraganset Indians, given them encouragement, of their own accord, to subject themselves, their people and lands, unto us; whereby, as is hoped, there may, in time, by the blessing of God upon their endeavours, be laid a sure foundation of happiness to all America. And whereas, in their humble address, they have freely declared, That it is much on their hearts (if they be permitted) to hold forth a lively experiment, that a most flourishing civil state may stand, and best be maintained, and that among our English subjects, with a full liberty in religious concerns; and that true piety, rightly grounded upon gospel principles, will give the best and greatest security to sovereignty, and will lay in the hearts of men the strongest obligations to true loyalty: Now, know ye, That we being willing to encourage the hopeful undertaking of our said loyal and loving subjects, and to secure them in the free exercise and enjoyment of all their civil and religious rights appertaining to them, as our loving subjects; and to preserve unto them that liberty in the true Christian faith and worship of God which they have sought with so much travail, and with peaceable minds and loyal subjection to our royal progenitors and ourselves, to enjoy; and because some of the people and inhabitants of the same colony cannot, in their private opinion, conform to the public exercise of religion, according to the liturgy, form, and ceremonies of the church of England, or take or subscribe the oaths and articles made and established in that behalf; and for that the same, by reason of the remote distances of those places, will, as we hope, be no breach of the unity and uniformity established in this nation, have therefore thought fit, and do hereby publish, grant, ordain, and declare, that our royal will and pleasure is, That no person within the said colony, at any time hereafter, shall be anywise molested, punished, disquieted, or called in question, for any differences in opinion in matters of religion, who do not actually disturb the civil peace of our said colony; but that all and every person and persons may, from time to time, and at all times hereafter, freely and fully have and enjoy his and their own judgments and consciences, in matters of religious concerns, throughout the track of land hereafter-mentioned, they behaving themselves

themselves peaceably and quietly, and not using this liberty to licentiousness and profaneness, nor to the civil injury or outward disturbance of others, any law, statute or clause therein contained, or to be contained, usage, or custom of this realm, to the contrary hereof; in any wise notwithstanding. And that they may be in the better capacity to defend themselves in their just rights and liberties, against all the enemies of the Christian faith, and others, in all respects, we have further thought fit, and at the humble petition of the persons aforesaid, are graciously pleased to declare, That they shall have and enjoy the benefit of our late act of indemnity, and free pardon, as the rest of our subjects in other our dominions and territories have; and to create and make them a body politic or corporate, with the powers or privileges herein after-mentioned: And accordingly, our will and pleasure is, and of our especial grace, certain knowledge, and mere motion, we have ordained, constituted and declared, and by these presents for us, our heirs and successors, do ordain, constitute, and declare, That they the said William Brenton, William Codrington, Nicholas Easton, Benedict Arnold, William Boulston, John Porter, Samuel Gorton, John Smith, John Weekes, Roger Williams, Thomas Olney, Gregory Dexter, John Cogeshall, Joseph Clarke, Randall Houlden, John Greene, John Roome, William Dyre, Samuel Wildbore, Richard Tew, William Field, Thomas Harris, James Barker, Rainborrow, Williams, and John Nickson, and all such others as are now, or hereafter shall be admitted, free of the company and society of our colony of Providence Plantations, in the Narraganset Bay, in New-England, shall be, from time to time, and for ever hereafter, a body corporate and politic, in fact and name, by the name of the Governor and Company of the English Colony of Rhode Island, and Providence Plantations, in New-England, in America; and that by the same name, they and their successors shall and may have perpetual succession, and shall and may be persons able and capable in the law to sue and be sued, to plead and be impleaded, to answer and to be answered unto, to defend and to be defended, in all and singular suits, causes, quarrels, matters, actions, and things, of what kind or nature soever; and also to have, take, possess, acquire, and purchase lands, tenements, or hereditaments, or any goods or chattels, and the same to lease, grant, demise, alien, bargain, sell, and dispose of, at their own will and pleasure, as other our liege people of this our realm of England, or any corporation or body politic within the same, may lawfully do: and further, That they the said governor and company, and their successors, shall and may, for ever hereafter, have a common seal, to serve and use for all matters, causes, things, and affairs whatsoever, of them and their successors, and the same seal to alter, change,

change, break, and make new from time to time, at their will and pleasure, as they shall think fit. And further, we will and ordain and by these presents, for us, our heirs and successors, do declare and appoint, That for the better ordering and managing of the affairs and business of the said company and their successors, there shall be one governor; one deputy-governor, and ten assistants, to be from time to time constituted, elected, and chosen, out of the freemen of the said company, for the time being, in such manner and form as is hereafter in these presents expressed; which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of and concerning the lands and hereditaments herein aftermentioned to be granted; and the plantation thereof, and the government of the people there. And for the better execution of our royal pleasure herein, we do for us, our heirs and successors, assign, name, constitute and appoint, the aforesaid Benedict Arnold to be the first and present governor of the said company, and the said William Boulston, John Porter, Roger Williams, Thomas Olney, John Smith, John Greene, John Cogeshall, James Barker, William Field, and Joseph Clarke, to be the ten present assistants of the said company, to continue in the said several offices respectively, until the first Wednesday which shall be in the month of May now next coming: And further, we will, and by these presents, for us, our heirs and successors, do ordain and grant, That the governor of the said company, for the time being, or in his absence, by occasion of sickness, or otherwise, by his leave or permission, the deputy-governor, for the time being, shall and may, from time to time, upon all occasions, give order for the assembling of the said company, and calling them together, to consult and advise of the business and affairs of the said company; and that for ever hereafter, twice in every year, that is to say, on every first Wednesday in the month of May, and on every last Wednesday in October, or oftener, in case it shall be requisite, the assistants, and such of the freemen of the said company, not exceeding six persons for Newport, four persons for each of the respective towns of Providence, Portsmouth, and Warwick, and two persons for each other place, town or city, who shall be from time to time thereunto elected or deputed by the major part of the freemen of the respective towns or places, for which they shall be so elected or deputed, shall have a general meeting or assembly, then and there to consult, advise and determine, in and about the affairs and business of the said company and plantations. And further, we do of our especial grace, certain knowledge, and mere motion, give and grant unto the said governor and company of the English colony of Rhode-Island and Providence Plantations, in New-England in America, and their successors, That the governor, or in his absence, or by his permission, the deputy-governor, of the said company for the time being, the assistants, and such of the freemen of the said

company, as shall be so aforesaid elected or deputed, or so many of them as shall be present at such meeting or assembly, as aforesaid, shall be called the General Assembly; and that they, or the greatest part of them then present, whereof the governor, or deputy-governor, and six of the assistants at least, to be seven, shall have, and have hereby given and granted unto them, full power and authority, from time to time, and at all times hereafter, to appoint, alter, and change such days, times and places of meeting, and general assembly, as they shall think fit, and to chuse, nominate, and appoint such and so many persons as they shall think fit, and shall be willing to accept the same, to be free of the said company and body politic, and them into the same to admit, and to elect, and constitute such offices and officers, and to grant such needful commissions as they shall think fit and requisite, for ordering, managing, and dispatching of the affairs of the said governor and company, and their successors; and, from time to time, to make, ordain, constitute, or repeal, such laws, statutes, orders and ordinances, forms and ceremonies of government and magistracy, as to them shall seem meet, for the good and welfare of the said company, and for the government and ordering of the lands and hereditaments herein after mentioned to be granted, and of the people that do, or at any time hereafter shall inhabit, or be within the same; so as such laws, ordinances, and constitutions, so made, be not contrary and repugnant unto, but as near as may be, agreeable to the laws of this our realm of England, considering the nature and constitution of the place and people there; and also, to appoint, order, and direct, erect and settle such places and courts of jurisdiction, for hearing and determining of all actions, cases, matters and things, happening within the said colony and plantation, and which shall be in dispute, and depending there, as they shall think fit; and also to distinguish and set forth the several names and titles, duties, powers and limits, of each court, office and officer, superior and inferior; and also, to contrive and appoint such forms of oaths and attestations, not repugnant, but as near as may be agreeable, as aforesaid, to the laws and statutes of this our realm, as are convenient and requisite, with respect to the due administration of justice, and due execution and discharge of all offices and places of trust, by the persons that shall be therein concerned; and also to regulate and order the way and manner of all elections to offices and places of trust, and to prescribe, limit and distinguish the number and bounds of all places, towns and cities, within the limits and bounds herein after mentioned, and not herein particularly named, who have or shall have the power of electing and sending of freemen to the said general assembly; and also to order, direct and authorise, the imposing of lawful and reasonable fines, mulcts, imprisonments, and executing other punishments, pecuniary and corporal, upon offenders and delinquents, according to the course of other corporations, within this our kingdom of England; and again,

to alter, revoke, annul or pardon, under their common seal, or otherwise, such fines, mulcts, imprisonments, sentences, judgments and condemnations, as shall be thought fit; and to direct, rule, order and dispose of all other matters and things, and particularly that which relates to the making of purchases of the native Indians, as to them shall seem meet; whereby our said people and inhabitants in the said plantations, may be so religiously, peaceably, and civilly governed, as that by their good life and orderly conversation they may win and invite the native Indians of the country to the knowledge and obedience of the only true God and Saviour of mankind; willing, commanding, and requiring, and by these presents, for us, our heirs, and successors, ordaining and appointing, that all such laws, statutes, orders, and ordinances, instructions, impositions, and directions, as shall be so made by the governor, deputy, assistants, and freemen, or such number of them as aforesaid, and published in writing under their common seal, shall be carefully and duly observed, kept, performed, and put in execution, according to the true intent and meaning of the same. And these our letters patent, or the duplicate or exemplification thereof, shall be to all and every such officers, superior or inferior, from time to time, for the putting of the same orders, laws, statutes, ordinances, instructions, and directions, in due execution against us, our heirs, and successors, a sufficient warrant and discharge. And further, our will and pleasure is, and we do hereby for us, our heirs, and successors, establish and ordain, that yearly, once in the year for ever hereafter, namely, the aforesaid Wednesday in May, and at the town of Newport or elsewhere, if urgent occasion do require, the governor, deputy-governor, and assistants of the said company, and other officers of the said company, or such of them as the general assembly shall think fit, shall be in the said general court or assembly, to be held from that day or time, newly chosen for the year ensuing, by the greater part of the said company for the time being as shall be then and there present. And if it shall happen that the present governor, deputy-governor, and assistants, by these presents appointed, or any such as shall hereafter be newly chosen into their rooms, or any of them, or any other the officers of the said company, shall die, or be removed from his or their several offices or places, before the said general day of election (whom we do hereby declare for any misdemeanour or default to be removable by the governor, assistants, and company, or such greater part of them, in any of the said public courts to be assembled as aforesaid), that then, and in every such case, it shall and may be lawful to and for the said governor, deputy-governor, assistants, and company aforesaid, or such greater part of them so to be assembled, as is aforesaid, in any of their assemblies, to proceed to a new election of one or more of their company, in the room or place, rooms or places, of such officer or officers so dying or removed, according to their directions. And immediately upo

and after such election or elections made of such governor, deputy-governor, assistant, or assistants, or any other officer of the said company, in manner and form aforesaid, the authority, office, and power before given to the former governor, deputy-governor, and other officer and officers so removed, in whose stead and place new shall be chosen, shall, as to him and them, and every of them respectively, cease and determine: Provided always, and our will and pleasure is, That as well such as are by these presents appointed to be the present governor, deputy-governor, and assistants of the said company, as those which shall succeed them, and all other officers to be appointed and chosen as aforesaid, shall, before the undertaking the execution of the said offices and places respectively, give their solemn engagement by oath or otherwise, for the due and faithful performance of their duties in their several offices and places, before such person or persons as are by these presents hereafter appointed to take and receive the same; (that is to say) the said Benedict Arnold, who is herein before nominated and appointed the present governor of the said company, shall give the aforesaid engagement before William Brenton, or any two of the said assistants of the said company, unto whom we do, by these presents, give full power and authority to require and receive the same; and the said William Brenton, who is hereby before nominated and appointed the present deputy-governor of the said company, shall give the aforesaid engagement before the said Benedict Arnold, or any two of the assistants of the said company, unto whom we do, by these presents, give full power and authority to require and receive the same; and the said William Boulston, John Porter, Roger Williams, Thomas Olney, John Smith, John Greene, John Cogeshall, James Barker, William Field, and Joseph Clarke, who are herein before nominated and appointed the present assistants of the company, shall give the said engagement to their offices and places respectively belonging, before the said Benedict Arnold and William Brenton, or one of them, to whom respectively we do hereby, give full power and authority to require, administer, or receive the same. And further, our will and pleasure is, that all and every other future governor, or deputy-governor, to be elected and chosen by virtue of these presents, shall give the said engagement before two or more of the said assistants of the said company for the time being, unto whom we do, by these presents, give full power and authority to require, administer, or receive the same; and the said assistants, and every of them, and all and every other officer or officers, to be hereafter elected and chosen by virtue of these presents, from time to time, shall give the like engagements to their offices and places respectively belonging, before the governor or deputy-governor for the time being; unto which said governor or deputy-governor, we do by these presents give full power and authority to require, administer, or receive the same accordingly. *And we do likewise for us, our heirs, and successors, give and grant*

grant unto the said governor and company and their successors, by these presents, that for the more peaceable and orderly government of the said plantations, it shall and may be lawful for the governor, deputy-governor, assistants, and all other officers and ministers of the said company, in the administration of justice and exercise of government in the said plantations, to use, exercise, and put in execution, such methods, rules, orders, and directions, not being contrary and repugnant to the laws and statutes of this our realm, as have been heretofore given, used, and accustomed in such cases respectively, to be put in practice, until at the next or some other general assembly, especial provision shall be made in the cases aforesaid. And we do further, for us, our heirs, and successors, give and grant unto the said governor and company, and their successors, by these presents, that it shall and may be lawful to and for the said governor, or in his absence the deputy-governor and major part of the said assistants for the time being, at any time, when the said general assembly is not sitting, to nominate, appoint, and constitute such and so many commanders, governors, and military officers, as to them shall seem requisite, for the leading, conducting, and training up the inhabitants of the said plantations in martial affairs, and for the defence and safeguard of the said plantations; and that it shall and may be lawful to and for all and every such commander, governor, and military officer, that shall be so as aforesaid, or by the governor, or in his absence the deputy-governor and six of the assistants, and major part of the freemen of the said company, present at any general assemblies, nominated, appointed, and constituted, according to the tenor of his and their respective commissions and directions, to assemble, exercise in arms, marshal, array, and put in warlike posture, the inhabitants of the said colony, for their especial defence and safety; and to lead and conduct the said inhabitants, and to encounter, repulse, and resist by force of arms, as well by sea as by land, to kill, slay, and destroy, by all fitting ways, enterprises, and means whatsoever, all and every such person or persons as shall at any time hereafter attempt or enterprize the destruction, invasion, detriment, or annoyance of the said inhabitants or plantations; and to use and exercise the law martial, in such cases only as occasion shall necessarily require; and to take and surprize, by all ways and means whatsoever, all and every such person and persons, with their ship or ships, armour, ammunition, or other goods of such persons as shall in hostile manner invade or attempt the defeating of the said plantation, or the hurt of the said company and inhabitants; and upon just causes to invade and destroy the natives, Indians, or other enemies of the said colony. Nevertheless, our will and pleasure is, and we do hereby declare, to the rest of our colonies in New-England, that it shall not be lawful for this our said colony of Rhode-Island and Providence Plantations in America, in New-England, to invade the natives inhabiting within the bounds and limits of their said colonies with

without the knowledge and consent of the said other colonies. And it is hereby declared, that it shall not be lawful to or for the rest of the colonies to invade or molest the native Indians, or any other inhabitants, inhabiting within the bounds or limits hereafter mentioned (they having subjected themselves unto us, and being by us taken into our special protection), without the knowledge and consent of the governor and company of our colony of Rhode-Island and Providence plantation. Also our will and pleasure is, and we do hereby declare unto all Christian kings, princes, and states, that if any person, which shall hereafter be of the said company or plantation, or any other by appointment of the said governor and company for the time being, shall at any time or times hereafter rob or spoil, by sea or land, or do any hurt, or unlawful hostility, to any of the subjects of us, our heirs, and successors, or to any of the subjects of any prince or state being then in league with us, our heirs, and successors; upon complaint of such injury done to any such prince or state, or their subjects, we, our heirs, and successors, will make open proclamation, within any parts of our realm of England, fit for that purpose, that the person or persons committing any such robbery or spoil, shall, within the time limited by such proclamation, make full restitution or satisfaction of all such injuries done or committed, so as the said prince, or others so complaining, may be fully satisfied and contented; and if the said person or persons who shall commit any such robbery or spoil, shall not make satisfaction accordingly, within such time so to be limited, that then we, our heirs and successors, will put such person or persons out of our allegiance and protection; and that then it shall and may be lawful and free for all princes or others, to prosecute with hostility such offenders, and every of them, their and every of their procurers, aiders, abettors, and councilors, in that behalf. Provided also, and our express will and pleasure is, and we do by these presents, for us, our heirs and successors, ordain and appoint, that these presents shall not in any manner hinder any of our loving subjects whatsoever, from using and exercising the trade of fishing upon the coast of New-England, in America, but that they, and every or any of them, shall have full and free power and liberty to continue and use the trade of fishing upon the said coast, in any of the seas thereunto adjoining, or any arms of the sea, or salt water, rivers and creeks, where they have been accustomed to fish, and to build and set upon the waste land belonging to the said colony and plantations such wharfs, stages, and work-houses, as shall be necessary for the salting, drying, and keeping, of their fish to be taken or gotten upon that coast. And further, for the encouragement of the inhabitants of our said colony of Providence plantation, to set upon the business of taking whales; it shall be lawful for them, or any of them, having struck a whale, dubertus, or other great fish, it or them to pursue unto that coast, and into any bay, river, cove, creek or shore, be-
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longing thereto, and it or them, upon the said coast, or in the said bay, river, cove, creek, or shore, belonging thereto, to kill and order for the best advantage, without molestation, they making no wilful waste or spoil; any thing in these presents contained, or any other matter or thing to the contrary notwithstanding. And further also, we are graciously pleased, and do hereby declare, that if any of the inhabitants of our said colony do set upon the planting of vineyards, (the soil and climate both seeming naturally to concur to the production of wines) or be industrious in the discovery of fishing-banks, in or about the said colony, we will, from time to time, give and allow all due and fitting encouragement therein, as to others in cases of like nature. And further, of our more ample grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said governor and company of the English colony of Rhode-Island and Providence plantation in the Narraganset bay in New-England, in America, and to every inhabitant there, and to every person and persons trading thither, and to every such person or persons, as are or shall be free of the said colony, full power and authority from time to time, and at all times hereafter, to take, ship, transport, and carry away, out of any of our realms and dominions, for and towards the plantation and defence of the said colony, such and so many of our loving subjects and strangers, as shall or will willingly accompany them in and to their said colony and plantation, except such person or persons as are or shall be therein restrained by us, our heirs and successors, or any law or statute of this realm; and also to ship and transport all and all manner of goods, chattels, merchandise, and other things whatsoever, that are or shall be useful or necessary for the said plantations, and defence thereof, and usually transported, and not prohibited by any law or statute of this our realm; yielding and paying unto us, our heirs and successors, such the duties, customs and subsidies, as are or ought to be paid or payable for the same. And further, our will and pleasure is, and we do, for us, our heirs and successors, ordain, declare, and grant, unto the said governor and company, and their successors, that all and every the subjects of us, our heirs and successors, which are already planted and settled within our said colony of Providence plantation, or which shall hereafter go to inhabit within the said colony, and all and every of their children which have been born there, or which shall happen hereafter to be born there, or on the sea going thither or returning from thence, shall have and enjoy all liberties and immunities of free and natural subjects, within any the dominions of us, our heirs and successors, to all intents, constructions, and purposes whatsoever, as if they and every of them were born within the realm of England. And further know ye, that we, of our more abundant grace, certain knowledge, and mere motion, have given, granted, and confirmed, and by these presents,

For us, our heirs and successors, do give, grant and confirm, unto the said governor and company, and their successors, all that part of our dominions, in New-England, in America, containing the Nahantick and Nanhygansett, alias Narraganset bay, and countries and parts adjacent, bounded on the west, or westerly, to the middle or channel of a river there, commonly called and known by the name of Pawcatuck alias Pawcawtuck river, and so along the said river, as the greater or middle stream thereof reacheth or lies up into the north country, northward unto the head thereof, and from thence by a strait line drawn due north, until it meet with the south line of the Massachusetts colony, and on the north or northerly, by the aforesaid south or southerly line of the Massachusetts colony or plantation, and extending towards the east or eastwardly three English miles, to the east and north-east of the most eastern and north-eastern parts of the aforesaid Narraganset bay, as the said bay lieth or extendeth itself from the ocean on the south or southwardly, unto the mouth of the river which runneth towards the town of Providence, and from thence along the eastwardly side or bank of the said river (higher called by the name of Seacunk river) up to the falls called Patucket falls, being the most westwardly line of Plymouth colony; and so from the said falls, in a strait line due north, until it meet with the aforesaid line of the Massachusetts colony, and bounded on the south by the ocean, and in particular the lands belonging to the town of Providence, Patuxit, Warwick, Misquammacock, alias Pawcatuck, and the rest upon the main land, in the tract aforesaid, together with Rhode-Island, Blocke-Island, and all the rest of the islands and banks in the Narraganset-bay, and bordering upon the coast of the tract aforesaid, (Fisher's island only excepted) together with all firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines royal, and all other mines; minerals, precious stones, quarries, woods, wood-grounds, rocks, flates, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, pre-eminences and hereditaments whatsoever, within the said tract, bounds, lands, and islands aforesaid, to them or any of them belonging, or in any-wise appertaining. To have and to hold the same, unto the said governor and company, and their successors for ever, upon trust, for the use and benefit of themselves, and their associates, freemen of the said colony, their heirs and assigns. To be holden of us, our heirs and successors, as of the manor of East-Greenwich in our county of Kent, in free and common soccage, and not in capite, nor by knights service. Yielding and paying therefore to us, our heirs and successors, only the fifth part of all the ore of gold and silver, which from time to time, and at all times hereafter, shall be there gotten, had or obtained, in lieu and satisfaction of all services, duties, fines, forfeitures, made or to be made, claims or demands whatsoever, to be to us, our heirs or successors, therefore or thereabout tendered, made or paid; any grant

or clause, in a late grant to the governor and company of Connecticut colony in America, to the contrary thereof in any wise notwithstanding; the aforesaid Pawcatuck river having been yielded after much debate, for the fixed and certain bounds between these out said colonies, by the agents thereof, who have also agreed, that the said Pawcatuck river shall also be called alias Narrogancett or Narrogansett river, and to prevent future disputes that otherwise might arise thereby, for ever hereafter shall be construed, deemed and taken to be the Narrogancett river, in our late grant to Connecticut colony, mentioned as the easterly bounds of that colony. And further, our will and pleasure is, that in all matters of public controversies, which may fall out between our colony of Providence plantation, to make their appeal therein to us, our heirs and successors, for redress in such cases, within this our realm of England; and that it shall be lawful to and for the inhabitants of the said colony of Providence plantations, without lett or molestation, to pass and repass with freedom into and through the rest of the English colonies, upon their lawful and civil occasions, and to converse, and hold commerce, and trade with such of the inhabitants of our other English colonies, as shall be willing to admit them thereunto, they behaving themselves peaceably among them; any act, clause, or sentence, in any of the said colonies provided, of that shall be provided, to the contrary in any wise notwithstanding. And lastly, we do for us, our heirs and successors, ordain and grant unto the said governor and company, and their successors, by these presents, that these our letters patents shall be firm, good, effectual, and available, in all things in the law, to all intents, constructions and purposes whatsoever, according to our true intent and meaning herein before declared; and shall be construed, reputed and adjudged in all cases, most favourably on the behalf, and for the best benefit and behoof of the said governor and company, and their successors, although express mention, &c. In witness, &c. witness, &c.

Per Ipsum Regem.

[Since the commencement of hostilities by Great Britain, the state of Rhode-Island and Providence plantations has not assumed a form of government different from that contained in the foregoing charter. For in that, the king ceded to the governor and company, all powers, legislative, executive, and judicial, reserving to himself, as an acknowledgement of his sovereignty, a render of the fifth part of the gold and silver ore that should be found within the territory. The governor, chief magistrates, and legislators are chosen by the freemen as usual, and all judicial and executive officers are annually elected by the governor and company, or upper and lower house of assembly. All processes original and judicial, formerly issued in the king's name, but they now issue in the name of the governor and company.

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The oaths of allegiance and of office are made conformable to the principles of the Revolution. The governor, in his legislative capacity, cannot give a negative to any act of the two houses; but, in common with the other magistrates, has one voice only.

The state is divided into five counties, in each of which there is a court of common pleas and general sessions of the peace, held twice every year, for the trial of all causes not capital, that arise within their limits; from which an appeal lies to the superior court of judicature, court of assize and general jail delivery, whose jurisdiction extends over the whole state, and who also sit twice a year in each county. The constitution admits not of religious establishments, any farther than depends upon the voluntary choice of individuals. All men professing one Supreme Being, are equally protected by the laws, and no particular sect can claim pre-eminence.]

C O N N E C T I C U T .

ACCOUNT of the CONSTITUTION of CONNECTICUT.

CONNECTICUT is divided into six counties, and each county is divided into a number of towns. Each town has a right to send two representatives to the general court or assembly. The general court consists of two branches called the upper and lower house. The upper house is composed of the governor, deputy-governor, and twelve assistants or counsellors; and the lower house of the representatives of the several towns. This court has the sole power to make and repeal laws, grant levies, dispose of lands belonging to the state, to particular towns and persons: to erect and stile judicatories and officers, as they shall see necessary for the good government of the people; and also to call to account any court, magistrate, or other officer, for any misdemeanor or mal-administration, and for just cause may fine, displace, or remove them, or deal otherwise, as the nature of the case shall require; and deal or act in any other matter that concerns the good of the state, except the election of governor, deputy-governor, assistants, treasurer, and secretary, which shall be done by the freemen at the yearly court of election, unless there be any vacancy by reason of death or otherwise, after the election, which may be filled up by the general court. This court has power also, for reasons satisfactory to them, to grant suspension, release, and jail delivery upon reprieve, in capital and criminal cases. The general court has two stated sessions annually, on the second Thursdays of May and October.

The governor, or in his absence the deputy-governor, may call the assembly, on special emergencies, to meet at any other time.

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The governor, deputy-governor, assistants, and secretary, are annually elected on the second Thursday in May. The representatives are newly chosen for each stated session. The judges and justices are annually appointed by the general court; the same persons are commonly re-appointed from time to time during their capacity to serve, unless guilty of misbehaviour. The sheriffs are appointed by the governor and council, without limitation of time, but may be superseded by the authority that appoints them. The governor for the time being is captain-general of the militia; the deputy-governor, lieutenant-general; the other general officers, and the field officers, are appointed by the general court, and commissioned by the governor. The captains and subalterns are chosen by the vote of the company and householders living within the limits of the company; the person so chosen must be approved by the general court, and commissioned by the governor, before they have power to execute their offices. All the military officers hold their offices during the pleasure of the assembly, nor can they resign their commissions without leave of the captain-general, under penalty of doing duty in the ranks as private soldiers.

The mode of electing the governor, deputy-governor, assistants, treasurer, and secretary is, that the freemen in the several towns meet on the Monday next after the first Tuesday in April annually (being the day appointed by law for that purpose, and choosing representatives), and give in their votes for the persons they choose for said offices respectively, with their names written on a piece of paper, which votes are received and sealed up by a constable in the freemen's meeting; the votes for each of said officers in a different paper, writing on the outside the name of the town, and the office for which the votes are given in, which are sent by the representatives to the general court, to be held on the second Thursday of May next ensuing; at which time, after the house of representatives have chosen a speaker and clerk, a committee is chosen of members of both houses, to sort and count the votes, and declare the names of the persons chosen to said offices. Any freemen qualified to vote for representatives, &c. may be elected to any office in the government. In choosing assistants twenty persons are nominated by the votes of the freemen, given in at their meeting for choosing representatives in September annually, and sealed up and sent to the general court in October then next, which are counted by a committee of both houses, and the twenty persons who have the greatest number of votes stand in nomination, out of which number twelve are to be chosen assistants by the freemen, the next April, in manner afore described.

The qualifications requisite to entitle a person to vote in election of the officers of government are, maturity in years, quiet and peaceable behaviour, a civil conversation, and forty shillings freehold, or forty pounds personal estate; if the selectmen of the town

certify a person qualified in those respects, he is admitted a freeman, on his taking an oath of fidelity to the state.

The names of all that are thus admitted, are inrolled in the town-clerk's office, and continue freemen during life, unless disfranchised by a sentence of the superior court on conviction of a misdemeanour.

The governor or in his absence the deputy governor in the upper house, and the speaker in the lower house of assembly, have a casting voice when the members of the respective houses, including the governor and speaker, are equally divided in opinion on any question.

There is in this state a superior court, consisting of one chief judge and four other judges, which have authority in all criminal cases, extending to life, limb, and banishment, and to hear and determine all civil actions brought by appeal from the county courts, or on writs of error. This court also hath authority in all matters of divorce. There are two stated sessions of the superior court in each county annually.

There are also county courts held in the several counties, consisting of one judge and four justices of the quorum, who have jurisdiction in all criminal cases arising within their respective counties, where the punishment does not extend to life, limb, or banishment. The county courts also have original jurisdiction in all civil actions wherein the demand exceeds forty shillings.

The superior and county courts try matters of fact by a jury, according to the course of the common law.

Justices of the peace have authority to hear and determine civil actions where the demand does not exceed forty shillings. They also have authority in some cases of a criminal nature, punishable by fine not exceeding forty shillings, or whipping not exceeding ten stripes, or sitting in the stocks.

This state is also divided into a number of probate districts, less than counties; in each of which is appointed a judge for the probate of wills, granting administration on intestate estates, appointing guardians for minors, ordering distribution of intestate estates, &c. An appeal lies from any decree of this court to the superior court.

The superior, county, and probate courts appoint their respective clerks.

The general court has till very lately been the only court of chancery in this state. But by a late law, the county courts determine matters of equity from five pounds to two hundred pounds value; the superior court from two hundred to eight hundred pounds value; and the general assembly all cases exceeding the last mentioned sum.

All attorneys at law are admitted and sworn by the county courts; there is no attorney general, but there used to be one king's attorney in each county; but since the king has abdicated the government, they are now attorneys to the governor and company.

N E W - Y O R K.

The CONSTITUTION of the State of New-York.

Established by the CONVENTION, authorised and empowered for that Purpose, April 20, 1777.

1. **T**HIS convention, in the name and by the authority of the good people of this state, doth ordain, determine; and declare, that no authority shall, on any pretence whatever, be exercised over the people or members of this state, but such as shall be derived from and granted by them.

2. This convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that the supreme legislative power, within this state, shall be vested in two separate and distinct bodies of men; the one to be called *The Assembly of the State of New-York*; the other to be called, *The Senate of the State of New-York*; who together shall form the legislature, and meet once, at least, in every year for the dispatch of business.

3. And whereas, laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed; be it ordained that the governor, for the time being, the chancellor, and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature, and for that purpose shall assemble themselves, from time to time, when the legislature shall be convened; for which nevertheless, they shall not receive any salary or consideration, under any pretence whatever. And that all bills, which have passed the senate and assembly, shall, before they become laws, be presented to the said council for their revision and consideration; and if upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this state, that they return the same, together with their objections thereto in writing, to the senate or house of assembly, in whichsoever the same shall have originated, who shall enter the objections sent down by the council, at large, in their minutes, and proceed to reconsider the said bill. But if after such reconsideration, two thirds of the said senate or house of assembly, shall, notwithstanding the said objections, agree to pass the same.

same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two thirds of the members present shall be a law.

And in order to prevent any unnecessary delays, be it further ordained, that if any bill shall not be returned by the council within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said ten days.

4. That the assembly shall consist of at least seventy members, to be annually chosen in the several counties in the proportions following, *via.*

For the city and county of New-York, *nine.*

The city and county of Albany, *ten.*

The county of Dutchess, *seven.*

The county of Westchester, *six.*

The county of Ulster, *six.*

The county of Suffolk, *five.*

The county of Queens, *four.*

The county of Orange, *four.*

The county of Kings, *two.*

The county of Richmond, *two.*

The county of Tryon, *six.*

The county of Charlotte, *four.*

The county of Cumberland, *three.*

The county of Gloucester, *two.*

5. That as soon after the expiration of seven years, subsequent to the termination of the present war as may be, a census of the electors and inhabitants in this state be taken, under the direction of the legislature. And if on such census, it shall appear, that the number of representatives in assembly from the said counties, is not justly proportioned to the number of electors in the said counties respectively, that the legislature do adjust and apportion the same by that rule. And further, that once in every seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken; and if it shall thereupon appear, that the number of electors in any county, shall have increased or diminished one or more seventieth parts of the whole number of electors, which on the said first census shall be found in this state, the number of representatives for such county shall be increased or diminished accordingly, that is to say, one representative for every seventieth part as aforesaid.

6. And

6. And whereas, an opinion hath long prevailed among divers of the good people of this state, that voting at elections by ballot, would tend more to preserve the liberty and equal freedom of the people than voting *viva voce*. To the end therefore, that a fair experiment be made, which of those two methods of voting is to be preferred:

Be it ordained, that as soon as may be, after the termination of the present war, between the United States of America and Great Britain, an act, or acts be passed by the legislature of this state, for causing all elections thereafter to be held in this state, for senators and representatives in assembly, to be by ballot, and directing the manner in which the same shall be conducted. And whereas, it is possible, that after all the care of the legislature, in framing the said act or acts, certain inconveniencies and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot:

It is further ordained, that if after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the state, than the method of voting *viva voce*, it shall be lawful and constitutional for the legislature to abolish the same; provided two thirds of the members present in each house, respectively shall concur therein: And further, that, during the continuance of the present war, and until the legislature of this state shall provide for the election of senators and representatives in assembly by ballot, the said elections shall be made *viva voce*.

7. That every male inhabitant of full age, who shall have personally resided within one of the counties of this state, for six months immediately preceeding the day of election, shall, at such election, be intitled to vote for representatives of the said county in assembly; if, during the time aforesaid he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this state: Provided always, that every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New-York, on or before the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

8. That every elector, before he is admitted to vote, shall, if required by the returning officer, or either of the inspectors, take an oath, or if of the people called Quakers, an affirmation, of allegiance to the state.

•• CONSTITUTION OF NEW-YORK.

9. That the assembly thus constituted shall choose their own speaker, be judges of their own members, and enjoy the same privileges, and proceed in doing business, in like manner as the assemblies of the colony of New-York of right formerly did; and that a majority of the said members shall, from time to time, constitute a house to proceed upon business.

10. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine and declare, that the senate of the state of New-York, shall consist of twenty-four freeholders, to be chosen out of the body of the freeholders, and that they be chosen by the freeholders of this state, possessed of freeholds of the value of one hundred pounds, over and above all debts charged thereon.

11. That the members of the senate be elected for four years, and immediately after the first election, they be divided by lot into four classes, six in each class, and numbered one, two, three and four; that the seats of the members of the first class shall be vacated at the expiration of the first year, the second class the second year, and so on continually; to the end that the fourth part of the senate, as nearly as possible, may be annually chosen.

12. That the election of senators shall be after this manner; that so much of this state as is now parcelled into counties, be divided into four great districts; the southern district to comprehend the city and county of New-York, Suffolk, Westchester, Kings, Queens, and Richmond counties; the middle district to comprehend the counties of Dutchess, Ulster and Orange; the western district, the city and county of Albany, and Tryon county; and the eastern district, the counties of Charlotte, Cumberland, and Gloucester. That the senators shall be elected by the freeholders of the said districts, qualified as aforesaid, in the proportions following, *to wit*, in the southern district nine, in the middle district six, in the western district six, and in the eastern district three. And be it ordained, that a census shall be taken as soon as may be, after the expiration of seven years from the termination of the present war, under the direction of the legislature: And if on such census it shall appear, that the number of senators is not justly proportioned to the several districts, that the legislature adjust the proportion as near as may be, to the number of freeholders qualified as aforesaid, in each district. That when the number of electors, within any of the said districts, shall have increased one twenty-fourth part of the whole number of electors, which, by the said census, shall be found to be in this state, an additional senator shall be chosen by the electors of such district. That a majority of the number of senators to be chosen as aforesaid shall be necessary to constitute a senate sufficient to proceed upon business, and that the senate shall, in like manner with the assembly, be the judges of its

own members. And be it ordained, that it shall be in the power of the future legislatures of this state, for the convenience and advantage of the good people thereof, to divide the same into such further and otehr counties and districts, as shall to them appear necessary.

13. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine and declare, that no member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to the subjects of this state, by this constitution, unless by the law of the land, or the judgment of his peers.

14. That neither the assembly nor the senate shall have power to adjourn themselves for any longer time than two days, without the mutual consent of both.

15. That whenever the assembly and senate disagree, a conference shall be held in the presence of both, and be managed by committees to be by them respectively chosen by ballot. That the doors both of the senate and assembly, shall at all times be kept open to all persons, except when the welfare of the state shall require their debates to be kept secret. And the journals of all their proceedings shall be kept in the manner heretofore accustomed by the general assembly of the colony of New-York, and except such parts as they shall, as aforesaid, respectively determine not to make public, be from day to day, (if the business of the legislature will permit) published.

16. It is nevertheless provided, that the number of senators shall never exceed one hundred, nor the number of assembly three hundred; but that whenever the number of senators shall amount to one hundred, or of the assembly to three hundred, then and in such case, the legislature shall from time to time thereafter, by laws for that purpose, apportion and distribute the said one hundred senators, and three hundred representatives; among the the great districts and counties of this state, in proportion to the number of their respective electors; so that the representation of the good people of this state, both in the senate and assembly, shall for ever remain proportionate and adequate.

17. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that the supreme executive power and authority of this state shall be vested in a governor; and that stately once in every three years, and as often as the seat of government shall become vacant, a wise and discreet freeholder of this state shall be by ballot elected governor, by the freeholders of this state, qualified as before described to elect senators; which elections shall be always held at the times and places of choosing representatives in assembly for each respective county; and that the
person

person who hath the greatest number of votes within the said state, shall be governor thereof.

18. That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander in chief of all the militia, and admiral of the navy of this state; that he shall have power to convene the assembly and senate on extraordinary occasions, to prorogue them from time to time, provided such prorogations shall not exceed sixty days in the space of any one year; and at his discretion to grant reprieves and pardons to persons convicted of crimes, other than treason or murder, in which he may suspend the execution of the sentence, until it shall be reported to the legislature at their subsequent meetings; and they shall either pardon, or direct the execution of the criminal, or grant a farther reprieve.

19. That it shall be the duty of the governor to inform the legislature, at every session, of the condition of the state, so far as may respect his department; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare and prosperity; to correspond with the continental congress, and other states; to transact all necessary business with the officers of government, civil and military; to take care that the laws are faithfully executed to the best of his ability; and to expedite all such measures as may be resolved upon by the legislature.

20. That a lieutenant-governor shall, at every election of a governor, and as often as the lieutenant governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor; and such lieutenant-governor shall, by virtue of his office, be president of the senate, and, upon an equal division, have a casting voice in their decisions, but not vote on any other occasion.

And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until another be chosen, or the governor absent or impeached, shall return or be acquitted. Provided, that where the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of the state, both by sea and land.

21. That whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy

vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall in like manner as the lieutenant-governor, administer the government, until others shall be elected by the suffrage of the people, at the succeeding election.

22. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine and declare, that the treasurer of this state shall be appointed by act of the legislature, to originate with the assembly: Provided, that he shall not be elected out of either branch of the legislature.

23. That all officers, other than those, who by this constitution are directed to be otherwise appointed, shall be appointed in the manner following, to wit, The assembly shall once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council for the appointment of the said officers, of which the governor for the time being, or the lieutenant governor, or the president of the senate, when they shall respectively administer the government, shall be president, and have a casting voice, *but no other vote*, and with the advice and consent of the said council, shall appoint all the said officers; and that a majority of the said council be a quorum. And further, the said senators shall not be eligible to the said council for two years successively.

24. That all military officers be appointed during pleasure; that all commissioned officers civil and military, be commissioned by the governor; and that the chancellor, the judges of the supreme court, and first judge of the county court in every county, hold their offices during good behaviour, or until they shall have respectively attained the age of sixty years.

25. That the chancellor and judges of the supreme court, shall not at the same time hold any other office, excepting that of delegate to the general congress, upon special occasions; and that the first judges of the county courts in the several counties, shall not at the same time hold any other office, excepting that of senator, or delegate to the general congress: But if the chancellor or either of the said judges be elected or appointed to any other office, excepting as is before excepted, it shall be at his option in which to serve.

26. That sheriffs and coroners be annually appointed; and that no person shall be capable of holding either of the said offices more than four years successively, nor the sheriff of holding any other office at the same time.

27. And be it further ordained, that the register and clerks in chancery be appointed by the chancellor; the clerks of the supreme court by the judges of the said court; the clerk of the court

court of probates by the judge of the said court ; and the register and marshall of the court of admiralty by the judge of the admiralty. The said marshall, registers and clerks to continue in office during the pleasure of those by whom they are to be appointed as aforesaid.

And that all attorneys, solicitors and counsellors at law, hereafter to be appointed, be appointed by the court, and licensed by the first judge of the court in which they shall respectively plead or practise ; and be regulated by the rules and orders of the said courts.

28. And be it further ordained, that where by this convention the duration of any office shall not be ascertained, such office shall be construed to be held during the pleasure of the council of appointment : Provided that new commissions shall be issued to judges of the county courts (other than to the first judge) and to justices of the peace, once at the least in every three years.

29. That town clerks, supervisors, assessors, constables, and collectors, and all other officers heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by the present or future acts of legislature.

That loan officers, county treasurers, and clerks of the supervisors, continue to be appointed in the manner directed by the present or future acts of the legislature.

30. That delegates to represent this state in the general congress of the United States of America, be annually appointed as follows, *to wit*, The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of delegates to be appointed ; after which nomination they shall meet together, and those persons named in both lists shall be delegates ; and out of those persons whose names are not in both lists, one half shall be chosen by the joint ballot of the senators and members of assembly, so met together as aforesaid.

31. That the stile of all laws shall be as follows, *to wit* " Be it enacted by the people of the state of New-York, represented in senate and assembly." And that all writs and other proceedings shall run in the name of *the people of the state of New-York*, and be tested in the name of the chancellor or chief judge of the court from whence they shall issue.

32. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that a court shall be instituted, for the trial of impeachments, and the correction of errors, under the regulations which shall be established by the legislature ; and to consist of the president of the senate, for the time being and the senators, chancellor, and judges of the supreme court, or the major part of them ; except, that when an impeachment shall be prosecuted

secuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office until his acquittal: And in like manner, when an appeal from a decree in equity shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error on a question of law, on a judgment in the supreme court, the judges of that court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

33. That the power of impeaching all officers of the state, formal and corrupt conduct in their respective offices, be vested in the representatives of the people in assembly; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. That previous to the trial of every impeachment, the members of the said court shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence; and that no judgment of the said court shall be valid, unless it be assented to by two third parts of the members then present; nor shall it extend farther than to removal from office, and disqualification to hold and enjoy any place of honour, trust or profit, under this state. But the party so convicted, shall be, nevertheless, liable and subject to indictment, trial, judgment and punishment, according to the laws of the land.

34. And it is further ordained, that in every trial on impeachment or indictment for crimes or misdemeanors, the party impeached or indicted shall be allowed counsel, as in civil actions.

35. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that such parts of the common law of England, and of the statute law of England and Great-Britain, and of the acts of the legislature of the colony of New-York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this state; subject to such alterations and provisions, as the legislature of this state shall, from time to time make concerning the same. That such of the said acts as are temporary, shall expire at the times limited for their duration respectively. That all such parts of the said common law, and all such of the said statutes, and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives, claimed or exercised by the king of Great-Britain and his

predecessors, over the colony of New-York and its inhabitants, or are repugnant to this constitution, be, and they hereby are, abrogated and rejected. And this convention doth further ordain, that the resolves or resolutions of the congresses of the colony of New-York, and of the convention of the state of New-York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this state; subject, nevertheless, to such alterations and provisions, as the legislature of this state may, from time to time, make concerning the same.

36. And be it further ordained, that all grants of land within this state, made by the king of Great-Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void: But that nothing in this constitution contained, shall be construed to affect any grants of land, within this state, made by the authority of the said king or his predecessors, or to annul any charters to bodies politic, by him or them, or any of them, made prior to that day. And that none of the said charters shall be adjudged to be void, by reason of any non-user or mis-user of any of their respective rights or privileges, between the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five, and the publication of this constitution. And further, that all such of the officers described in the said charters respectively, as by the terms of the said charters, were to be appointed by the governor of the colony of New-York, with or without the advice and consent of the council of the said king, in the said colony, shall henceforth be appointed by the council established by this constitution, for the appointment of officers in this state, until otherwise directed by the legislature.

37. And whereas it is of great importance to the safety of this state, that peace and amity with the indians within the same, be at all times supported and maintained. And whereas, the frauds too often practised towards the said indians, in contracts made for their lands, have in divers instances been productive of dangerous discontents and animosities; Be it ordained, that no purchases or contracts for the sale of lands made since the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said indians, within the limits of this state, shall be binding on the said indians, or deemed valid, unless made under the authority, and with the consent of the legislature of this state.

38. And whereas we are required by the benevolent principles of rational liberty, not only to expel civil tyranny, but also

also to guard against that spiritual oppression and intolerance, wherewith the bigotry and ambition of weak and wicked priests and princes, have scourged mankind: This convention doth further, in the name and by the authority of the good people of this state, ordain, determine and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this state, to all mankind. Provided that the liberty of conscience hereby granted, shall not be so construed, as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

39. And whereas the ministers of the gospel, are by their profession dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function; therefore no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place, within this state.

40. And whereas it is of the utmost importance to the safety of every state, that it should always be in a condition of defence; and it is the duty of every man, who enjoys the protection of society, to be prepared and willing to defend it; this convention, therefore, in the name and by the authority of the good people of this state, doth ordain, determine and declare, that the militia of this state, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this state, being of the people called Quakers, from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature; and do pay to the state, such sums of money in lieu of their personal service, as the same may, in the judgment of the legislature, be worth: And that a proper magazine of warlike stores, proportionate to the number of inhabitants, be, forever hereafter, at the expence of this state, and by acts of the legislature, established, maintained, and continued in every county in this state.

41. And this convention doth further ordain, determine and declare, in the name and by the authority of the good people of this state, that trial by jury, in all cases in which it hath heretofore been used in the colony of New-York, shall be established, and remain inviolate forever. And that no acts of attainder shall be passed by the legislature of this state for crimes, other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood. And further, that the legislature of this state shall, at

no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

42. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine and declare, that it shall be in the discretion of the legislature to naturalize all such persons, and in such manner as they shall think proper; provided all such of the persons, so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America, shall come to settle in, and become subjects of this state, shall take an oath of allegiance to this state, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate and state, in all matters ecclesiastical as well as civil.

By order.

LEONARD GANSEVOORT,

Pres. pro tem.

N E W - J E R S E Y.

C O N S T I T U T I O N *of* N E W - J E R S E Y.

WHEREAS all the constitutional authority ever possessed by the kings of Great-Britain over these colonies, or their other dominions was, by compact derived from the people, and held of them for the common interest of the whole society, allegiance and protection are, in the nature of things, reciprocal ties, each equally depending upon the other, and liable to be dissolved by the other's being refused or withdrawn. And whereas George the third, king of Great-Britain, has refused protection to the good people of these colonies; and, by assenting to sundry acts of the British parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them in the most cruel and unnatural manner, for no other cause than asserting their just rights, all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently taken place.

And whereas in the present deplorable situation of these colonies, exposed to the fury of a cruel and relentless enemy, some form of government is absolutely necessary, not only for the preservation of good order, but also the more effectually to unite the people, and enable them to exert their whole force in their own necessary defence; and as the honourable the continental congress, the supreme council of the American colonies, has advised such of the colonies as have not yet gone into the measure, to adopt for themselves respectively, such government as shall best conduce to their own happiness and safety, and the well-being of America in general: We, the representatives of the colony of New-Jersey, having been elected by all the counties in the freest manner, and in congress assembled, have, after mature deliberations, agreed upon a sett of charter rights, and the form of a constitution, in manner following, viz.

1. That the government of this province shall be vested in a governor, legislative council, and general assembly.

2. That the legislative council and general assembly shall be chosen, for the first time, on the second Tuesday in August next; the members whereof shall be the same in number and qualifications as is herein after mentioned; and shall be and remain vested with all the powers and authority to be held by
any

any future legislative council and assembly of this colony, until the second Tuesday in October, which shall be in the year of our Lord one thousand seven hundred and seventy-seven.

3. That on the second Tuesday in October yearly, and every year for ever (with the privilege of adjourning from day to day, as occasion may require) the counties shall severally choose one person to be a member of the legislative council of this colony, who shall be and have been for one whole year next before the election, an inhabitant and freeholder in the county in which he is chosen, and worth at least one thousand pounds, proclamation money, of real and personal estate within the same county: that, at the same time, each county shall also choose three members of assembly; provided, that no person shall be entitled to a seat in the said assembly, unless he be and have been for one whole year next before the election, an inhabitant of the county he is to represent, and worth five hundred pounds proclamation money in real and personal estate, in the same county: that on the second Tuesday next after the day of election, the council and assembly shall separately meet; and that the consent of both houses shall be necessary to every law; provided, that seven shall be a quorum of the council for doing business, and that no law shall pass, unless there be a majority of all the representatives of each body personally present, and agreeing thereto. Provided always, that if a majority of the representatives of this province, in council and general assembly convened, shall, at any time or times hereafter, judge it equitable and proper to add to or diminish the number or proportion of the members of assembly for any county or counties in this colony, then, and in such case, the same may, on the principles of more equal representation, be lawfully done, any thing in this charter to the contrary notwithstanding, so that the whole number of representatives in assembly shall not at any time be less than thirty nine.

4. That all inhabitants of this colony of full age, who are worth fifty pounds, proclamation money, clear estate in the same, and have resided within the county in which they claim a vote, for twelve months immediately preceding the election, shall be entitled to vote for representatives in council and assembly; and also for all other public officers that shall be elected by the people of the county at large.

5. That the assembly, when met, shall have power to choose a speaker, and other their officers; to be judges of the qualifications and elections of their own members; sit upon their own adjournments; prepare bills to be passed into laws; and to empower their speaker to convene them, whenever any extraordinary occurrence shall render it necessary.

6. That

6. That the council shall have power to prepare bills to pass into laws, and have other like powers as the assembly, and in all respects to be a free and independent branch of the legislature of this colony; save only, that they shall not prepare or alter any money bill, which shall be the privilege of the assembly, that the council shall, from time to time, be convened by the governor or vice-president, but must be convened at all times when the assembly sits; for which purpose the speaker of the house of assembly shall always immediately after an adjournment give notice to the governor or vice-president, of the time and place to which the house is adjourned.

7. That the council and assembly jointly, at their first meeting after each annual election, shall, by a majority of votes, elect some fit person within the colony to be governor for one year, who shall be constant president of the council, and have a casting vote in their proceedings; and that the council themselves shall choose a vice-president, who shall act as such in the absence of the governor.

8. That the governor, or in his absence, the vice-president of the council, shall have the supreme executive power, be chancellor of the colony, and act as captain-general and commander in chief of all the militia and other military force in this colony; and that any three or more of the council shall, at all times, be a privy-council to consult them; and that the governor be ordinary or surrogate-general.

9. That the governor and council, (seven whereof shall be a quorum) be the court of appeals in the last resort in all clauses of law, as heretofore; and that they possess the power of granting pardons to criminals after condemnation, in all cases of treason, felony, or other offences.

10. That captains, and all other inferior officers of the militia, shall be chosen by the companies in the respective counties; but field and general officers by the council and assembly.

11. That the council and assembly shall have power to make the great seal of this colony, which shall be kept by the governor, or, in his absence, by the vice-president of the council, to be used by them, as occasion may require; and it shall be called, *The great seal of the colony of New-Jersey*.

12. That the judges of the supreme court shall continue in office for seven years; the judges of the inferior court of common pleas in the several counties, justices of the peace, clerks of the supreme court, clerks of the inferior court of common pleas and quarter sessions, the attorney-general, and provincial secretary, shall continue in office for five years; and the provincial treasurer shall continue in office for one year; and that they

they shall be severally appointed by the council and assembly in manner aforesaid, and commissioned by the governor; or in his absence the vice-president of the council. Provided always, that the said officers severally, shall be capable of being re-appointed at the end of the terms severally before limited; and that any of the said officers shall be liable to be dismissed, when adjudged guilty of misbehaviour, by the council on an impeachment of the assembly.

13. That the inhabitants of each county, qualified to vote as aforesaid, shall, at the time and place of electing their representatives, annually elect one sheriff, and one or more coroners; and that they may re-elect the same person to such offices until he shall have served three years, but no longer; after which three years must elapse before the same person is capable of being elected again. When the election is certified to the governor or vice-president, under the hands of six freeholders of the county for which they were elected, they shall be immediately commissioned to serve in their respective offices.

14. That the townships, at their annual town meetings for electing other officers, shall chuse constables for the districts respectively; and also three or more judicious freeholders of good character, to hear and finally determine all appeals relative to unjust assessments in cases of public taxation; which commissioners of appeal shall, for that purpose, sit at some suitable time or times to be by them appointed, and made known to the people by advertisements.

15. That the laws of the colony shall begin in the following stile, viz. *Be it enacted by the council and general assembly of this colony, and it is hereby enacted by authority of the same:* that all commissions granted by the governor or vice-president, shall run thus—*The colony of New-Jersey to A. B. &c. greeting,* and that all writs shall likewise run in the name of the colony: and that all indictments shall conclude in the following manner, viz. *Against the peace of this colony, the government and dignity of the same.*

16. That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

17. That the estates of such persons as shall destroy their own lives shall not, for that offence, be forfeited; but shall descend in the same manner as they would have done, had such persons died in the natural way; nor shall any article which may occasion accidentally the death of any one, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

18. That no person shall ever within this colony be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under

under any pretence whatever be compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person within this colony ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any other church or churches, place or places of worship, or for the maintainance of any minister or ministry, contrary to what he believes to be right, or has deliberately or voluntarily engaged himself to perform.

19. That there shall be no establishment of any one religious sect in this province, in preference to another; and that no protestant inhabitants of this colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any protestant sect, who shall demean themselves peaceably under the government as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the legislature, and shall fully and freely enjoy every privilege and immunity enjoyed by others their fellow subjects.

20. That the legislative department of this government may, as much as possible, be preserved from all suspicion of corruption; none of the judges of the supreme or other courts, sheriffs, or any other person or persons possessed of any post of profit under the government, other than justices of the peace, shall be entitled to a seat in the assembly; but that on his being elected and taking his seat, his office or post shall be considered as vacant.

21. That all the laws of this province, contained in the edition lately published by Mr. Allinson, shall be and remain in full force, until altered by the legislature of this colony (such only excepted as are incompatible with this charter) and shall be, according as heretofore, regarded in all respects, by all civil officers, and others, the good people of this province.

22. That the common law of England, as well as so much of the statute law as have been heretofore practised in this colony, shall still remain in force, until they shall be altered by a future law of the legislature; such parts only excepted as are repugnant to the rights and privileges contained in this charter; and that the inestimable right of trial by jury shall remain confirmed, as a part of the law of this colony, without repeal for ever.

23. That every person who shall be elected as aforesaid, to be a member of the legislative council or house of assembly, shall previous to his taking his seat in council or assembly take the following oath or affirmation, *viz.*

I

“ I,

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“ I, A. B. do solemnly declare, that, as a member of the legislative council (or assembly, as the case may be) of the colony of New-Jersey, I will not assent to any law, vote, or proceeding, which shall appear to me injurious to the public-welfare of said colony, nor that shall annul or repeal that part of the third section in the charter in this colony, which establishes that the elections of members of the legislative council and assembly shall be annual, nor that part of the twenty-second section in said charter, respecting the trial by jury, nor that shall annul, repeal, or alter any part or parts of the eighteenth or nineteenth sections of the same.”

And any person or persons, who shall be elected as aforesaid, is hereby impowered to administer to the said members, the said oath or affirmation.

Provided always, and it is the true intent and meaning of this congress, that if a reconciliation between Great-Britain and these colonies should take place, and the latter be taken again under the protection and government of the crown of Britain, this charter shall be null and void, otherwise to remain firm and inviolable.

In PROVINCIAL CONGRESS, New-Jersey, Burlington, July 2,
1776.

By order of Congress.

SAMUEL TUCKER, PRESIDENT.

Extract from the Minutes,

WILLIAM PATERSON, *Secretary.*

PENNSYLVANIA.

P E N N S Y L V A N I A.

The CONSTITUTION *of the Commonwealth of Penn-*
sylvania, as established by the GENERAL CONVENTION, elected
for that Purpose, and held at Philadelphia, July 15, 1776, and
continued by Adjournments to September 28, 1776.

WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness. And whereas the inhabitants of this commonwealth have, in consideration of protection only, heretofore acknowledged allegiance to the king of Great Britain, and the said king has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them, employing therein, not only the troops of Great-Britain, but foreign mercenaries, savages, and slaves, for the avowed purpose of reducing them to a total and abject submission, to the despotic domination of the British Parliament, with many other acts of tyranny, (more fully set forth in the declaration of congress) whereby all allegiance and fealty to the said king and his successors, are dissolved and at an end, and all power and authority derived from him ceased in these colonies. And whereas it is absolutely necessary for the welfare and safety of the inhabitants of said colonies, that they be henceforth free and independent states, and that just, permanent, and proper forms of government exist in every part of them, derived from and founded on the authority of the people only, agreeable to the directions of the honourable American congress. We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the great Governor of the universe (who alone

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knows to what degree of earthly happiness mankind may attain, by perfecting the arts of government) in permitting the people of this state, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society; and being fully convinced, that it is our indispensable duty to establish such original principals of government, as will best promote the general happiness of the people of this state, and their posterity, and provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever, do, by virtue of the authority vested in us by our constituents, ordain, declare, and establish, the following *Declaration of Rights, and Frame of Government*, to be the CONSTITUTION of this commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall by the same authority of the people, fairly delegated as this frame of government directs, be amended or improved for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

C H A P T E R I.

A DECLARATION of the RIGHTS of the Inhabitants of the State of Pennsylvania.

1. **T**HAT all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

2. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding: And that no man ought, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship: And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case inter-

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interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.

3. That the people of this state have the sole, exclusive, and inherent right of governing and regulating the internal police of the same.

4. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees, and servants, and at all times accountable to them.

5. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community: And that the community hath an undubitable, inalienable, and indefeasible right to reform, alter, or abolish government in such manner, as shall be by that community judged most conducive to the public weal.

6. That those who are employed in the legislative and executive business of the state may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

7. That all elections ought to be free; and that all free men having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or be elected into office.

8. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service, when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent: Nor are the people bound by any laws, but such as they have in like manner assented, to for their common good.

9. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty: Nor can he be compelled to give evidence against himself: Nor can any man be justly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

10. That

10. That the people have a right to hold themselves their houses, papers, and possessions free from search or seizure; and therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are contrary to that right and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

12. That the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained.

13. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace, are dangerous to liberty, they ought not to be kept up: And that the military should be kept under strict subordination to, and governed by, the civil power.

14. That a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolute necessary to preserve the blessings of liberty, and keep a government free: The people ought therefore to pay particular attention to these points in the choice of officers and representatives, and have a right to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the state.

15. That all men have a natural inherent right to emigrate from one state to another that will receive them, or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness.

16. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition, or remonstrance.

CHAPTER II.

PLAN or FRAME of GOVERNMENT.

Sect. 1. **T**HE commonwealth or state of Pennsylvania shall be governed hereafter by an assembly of the representatives of the freemen of the same, and a president and council, in manner and form following—

Sect. 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the commonwealth or state of Pennsylvania.

Sect. 3. The supreme executive power shall be vested in a president and council.

Sect. 4. Courts of justice shall be established in the city of Philadelphia, and in every county of this state.

Sect. 5. The freemen of this commonwealth and their sons shall be trained and armed for its defence, under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of choosing their colonel, and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed.

Sect. 6. Every freeman of the full age of twenty-one years, having resided in this state for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: Provided always, that sons of freeholders of the age of twenty-one years shall be intitled to vote, although they have not paid taxes.

Sect. 7. The house of representatives of the freemen of this commonwealth, shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every city and county of this commonwealth respectively. And no person shall be elected unless he has resided in the city or county for which he shall be chosen, two years immediately before the said election; nor shall any member, while he continues such, hold any other office, except in the militia.

Sect. 8. No person shall be capable of being elected a member to serve in the house of representatives of the freemen of this commonwealth more than four years in seven.

Sect. 9. The members of the house of representatives shall be chosen annually by ballot, by the freemen of the commonwealth, on the second Tuesday in October for ever, (except this present year) and shall meet on the fourth Monday of the same

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same month, and shall be filed, *The General Assembly of Representatives of the Freemen of Pennsylvania*, and shall have power to chuse their speaker, the treasurer of the state, and their other officers; sit on their own adjournments; prepare bills and enact them into laws; judge of the elections and qualifications of their own members; they may expel a member, but not a second time for the same cause; they may administer oaths or affirmations on examination of witnesses; redress grievances; impeach state criminals; grant charters of incorporation; constitute towns, boroughs, cities and counties. And shall have all other powers necessary for the legislature of a free state or commonwealth. But they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

SECT. 10. A quorum of the house of representatives shall consist of two thirds of the whole number of members elected; and having met and chosen their speaker, shall each of them before they proceed to business, take and subscribe, as well the oath or affirmation of fidelity and allegiance herein after directed, as the following oath or affirmation, *viz.*

“ I do swear (or affirm) that as a member of this assembly, I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people; nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the constitution of this state; but will in all things conduct myself as a faithful honest representative and guardian of the people, according to the best of my judgment and abilities.”

And each member before he takes his seat, shall make and subscribe the following declaration, *viz.*

“ I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked. And I do acknowledge the scriptures of the Old and New Testament to be given by divine inspiration.”

And no further or other religious test shall ever hereafter be required of any civil officer or magistrate in this state.

SECT. 11. Delegates to represent this state in congress shall be chosen by ballot by the future general assembly at their first meeting, and annually for ever afterwards, as long as such representation shall be necessary. Any delegate may be superseded at any time, by the general assembly appointing another in his stead. No man shall sit in congress longer than two years successively, nor be capable of re-election for three years afterwards. And no person who holds any office in the gift of the congress, shall hereafter be elected to represent this commonwealth in congress.

SECT. 12. If any city or cities, county or counties shall neglect or refuse to elect and send representatives to the general assembly

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assembly, two thirds of the members from the cities or counties that do elect and send representatives, provided they may be a majority of the cities and counties of the whole state, when met shall have all the powers of the general assembly, as fully and amply as if the whole were present.

Sect. 13. The doors of the house in which the representatives of the freemen of this state shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this state may require the doors to be shut.

Sect. 14. The votes and proceedings of the general assembly shall be printed weekly during their sitting, with the yeas and nays on any question, vote, or resolution, where any two members require it, except when the vote is taken by ballot; and when the yeas and nays are so taken, every member shall have a right to insert the reasons of his vote upon the minutes, if he desire it.

Sect. 15. To the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills of public nature shall be printed for the consideration of the people, before they are read in general assembly the last time for debate and amendment; and except on occasions of sudden necessity shall not be passed into laws until the next session of assembly; and for the more perfect satisfaction of the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles.

Sect. 16. The stile of the laws of this commonwealth shall be, "Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same." And the general assembly shall affix their seal to every bill, as soon as it is enacted into a law, which seal shall be kept by the assembly, and shall be called, *The seal of the laws of Pennsylvania*, and shall not be used for any other purpose.

Sect. 17. The city of Philadelphia, and each county in this commonwealth respectively, shall on the first Tuesday of November in this present year, and on the second Tuesday in October annually, for the two next succeeding years, to wit, the year one thousand seven hundred and seventy seven, and the year one thousand seven hundred and seventy eight, chuse six persons to represent them in general assembly. But as representation in proportion to the number of taxable inhabitants, is the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land; therefore the general assembly shall cause complete lists of the taxable inhabitants in the city and each county in the commonwealth respectively, to be taken, and returned to them, on

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or before the last meeting of the assembly, elected in the year one thousand seven hundred and seventy eight, who shall appoint a representation to each, in proportion to the number of taxables in such returns; which representation shall continue for the next seven years afterwards, at the end of which, a new return of the taxable inhabitants shall be made, and a representation agreeable thereto appointed by the said assembly, and so on septennially for ever. The wages of the representatives in general assembly, and all other state charges shall be paid out of the state treasury.

Sec. 18. In order that the freemen of this commonwealth may enjoy the benefit of election as equally as may be, until the representation shall commence, as directed in the foregoing section, each county at its own choice may be divided into districts, hold elections therein, and elect their representatives in the county, and their other elective officers, as shall be hereafter regulated by the general assembly of this state. And no inhabitant of this state shall have more than one annual vote, at the general election for representatives in assembly.

Sec. 19. For the present the supreme executive council of this state shall consist of twelve persons, chosen in the following manner: The freemen of the city of Philadelphia, and of the counties of Philadelphia, Chester, and Bucks, respectively, shall choose by ballot one person for the city, and one for each county aforesaid, to serve for three years and no longer, at the time and place for electing representatives in general assembly. The freemen of the counties of Lancaster, York, Cumberland, and Berks, shall, in like manner, elect one person for each county respectively, to serve as counsellors for two years, and no longer. And the counties of Northampton, Bedford, Northumberland, and Westmoreland, respectively, shall, in like manner elect one person for each county, to serve as counsellors for one year, and no longer. And at the expiration of the time for which each counsellor was chosen to serve, the freemen of the city of Philadelphia, and of the several counties in this state, respectively, shall elect one person to serve as counsellor for three years and no longer; and so on every third year for ever. By this mode of election and continual rotation, more men will be trained to public business, there will in every subsequent year be found in the council, a number of persons acquainted with the proceedings of the foregoing years, whereby the business will be more consistently conducted, and moreover the danger of establishing an inconvenient aristocracy will be effectually prevented. All vacancies in the council that may happen by death, resignation, or otherwise, shall be filled at the next general election for representatives in general assembly, unless a particular election for that purpose shall be sooner appointed by the president and council. No mem-

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member of the general assembly, or delegate in congress, shall be chosen a member of the council. The president and vice-president shall be chosen annually, by the joint ballot of the general assembly and council, of the members of the council. Any person having served as a counsellor for three successive years, shall be incapable of holding that office for four years afterwards. Every member of the council shall be a justice of the peace for the whole commonwealth, by virtue of his office.

In case new additional counties shall hereafter be erected in this state, such county or counties shall elect a counsellor, and such county or counties shall be annexed to the next neighbouring counties, and shall take rotation with such counties.

The council shall meet annually, at the same time and place with the general assembly.

The treasurer of the state, trustees of the loan office, naval officers, collectors of customs or excise, judge of the admiralty, attorney-general, sheriffs and prothonotaries, shall not be capable of a seat in the general assembly, executive council, or continental congress.

Sec. 20. The president, and in his absence the vice-president with the council, five of whom shall be a quorum, shall have power to appoint and commissionate judges, naval officers, judge of the admiralty, attorney general, and all other officers, civil and military, except such as are chosen by the general assembly, or the people, agreeable to this frame of government, and the laws that may be made hereafter; and shall supply every vacancy, in any office, occasioned by death, resignation, removal, or disqualification, until the office can be filled in the time and manner directed by a law or this constitution. They are to correspond with other states, and transact business with the officers of government, civil and military; and to prepare such business as may appear to them necessary, to lay before the general assembly. They shall sit as judges to hear and determine on impeachments, taking to their assistance, for advice only, the justices of the supreme court. And shall have power to grant pardons, and remit fines, in all cases whatsoever, except in cases of impeachment; and in cases of treason and murder, shall have power to grant reprieves, but not to pardon, until the end of the next sessions of assembly; but there shall be no remission or mitigation of punishments on impeachments, except by act of the legislature; they are also to take care that the laws be faithfully executed; they are to expedite the execution of such measures as may be resolved upon by the general assembly; and they may draw upon the treasury for such sums as shall be appropriated by the house: they may also lay embargoes, or prohibit the exportation of any commodity, for any time,

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not exceeding thirty days, in the recess of the house only; They may grant such licences as shall be directed by the council, and shall have power to call together the general assembly when necessary, before the day to which they shall stand adjourned. The president shall be commander in chief of the forces of the state, but shall not command in person, except advised thereto by the council, and then only so long as they shall approve thereof. The president and council shall have a secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reasons in support of it.

Sect. 21. All commissions shall be in the name, and by the authority of the freemen of the commonwealth of Pennsylvania, sealed with the state seal, signed by the president or vice-president, and attested by the secretary; which seal shall be kept by the council.

Sect. 22. Every officer of state, whether judicial, or executive, shall be liable to be impeached by the general assembly, either when in the office, or after his resignation, or removal for mal-administration: All impeachments shall be before the president or vice-president and council, who shall hear and determine the same.

Sect. 23. The judges of the supreme court of judicature shall have fixed salaries, be commissioned for seven years only, though capable of re-appointment at the end of that term, but removable for misbehaviour at any time by the general assembly; they shall not be allowed to sit as members in the continental congress, executive council, or general assembly, nor to hold any other office civil or military; nor to take or receive fees or perquisites of any kind.

Sect. 24. The supreme court, and the several courts of common pleas of this commonwealth, shall, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to the perpetuating testimony, obtaining evidence from places not within this state, and the care of the persons and estates of those who are *non compos mentis*, and such other powers as may be found necessary by future general assemblies, not inconsistent with this constitution.

Sect. 25. Trials shall be by jury as heretofore: And it is recommended to the legislature of this state to provide by law against every corruption or partiality in the choice, return, or appointment of juries.

Sect. 26. Courts of sessions, common pleas, and orphans courts shall be held quarterly in each city and county; and legislature shall have power to establish all such other courts as they may judge for the good of the inhabitants of the state. All courts shall be open, and justice shall be impartially administered, without corruption or unnecessary delay: All their
officers

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officers shall be paid an adequate but moderate compensation for their services: And if any officer shall take greater or other fees than the laws allow him, either directly or indirectly, it shall ever after disqualify him from holding any office in this State.

Sect. 27. All prosecutions shall commence in the name and by the authority of the freemen of the commonwealth of Pennsylvania; and all indictments shall conclude with these words, "*Against the peace and dignity of the same.*" The style of all process hereafter in this state shall be, *The commonwealth of Pennsylvania.*

Sect. 28. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

Sect. 29. Excessive bail shall not be exacted for bailable offences: And all fines shall be moderate.

Sect. 30. Justices of the peace shall be elected by the freeholders of each city and county respectively, that is to say, two or more persons may be chosen for each ward, township, or district, as the law shall hereafter direct: And their names shall be returned to the president in council, who shall commissionate one or more of them for each ward, township, or district so returning, for seven years, removable for misconduct by the general assembly: But if any city or county, ward, township, or district in this commonwealth, shall hereafter incline to change the manner of appointing their justices of the peace, as settled in this article, the general assembly may make laws to regulate the same, agreeable to the desire of a majority of the freeholders of the city or county, ward, township, or district so applying. No justice of the peace shall sit in the general assembly, unless he first resign his commission, nor shall he be allowed to take any fees, nor any salary or allowance, except such as the future legislature may grant.

Sect. 31. Sheriffs and coroners shall be elected annually in each city and county, by the freemen; that is to say, two persons for each office, one of whom for each, is to be commissioned by the president in council. No person shall continue in the office of sheriff more than three successive years, or be capable of being again elected during four years, afterwards. The election shall be held at the same time and place appointed for the election of representatives: And the commissioners and assessors, and other officers chosen by the people, shall also be then and there elected, as has been usual heretofore, until

altered

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altered or otherwise regulated by the future legislature of this state.

Sec. 32. All elections, whether by the people or in general assembly, shall be by ballot, free and voluntary: And any elector, who shall receive any gift or reward for his vote, in meat, drink, monies, or otherwise, shall forfeit his right to elect for that time, and suffer such other penalty as future laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such rewards to be elected, shall be thereby rendered incapable to serve for the ensuing year.

Sec. 33. All fees, licence money, fines, and forfeitures heretofore granted, or paid to the governor, or his deputies for the support of government, shall hereafter be paid into the public treasury, unless altered or abolished by the future legislature.

Sec. 34. A register's office for the probate of wills, and granting letters of administration, and an office for the recording of deeds, shall be kept in each city and county: The officers to be appointed by the general assembly, removeable at their pleasure, and to be commissioned by the president in council.

Sec. 35. The printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government.

Sec. 36. As every freeman to preserve his independence (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit; the usual effects of which are dependence and servility, unbecoming freemen, in the possessors and expectants; faction, contention, corruption, and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation: And whenever an office, through increase of fees, or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature.

Sec. 37. The future legislature of this state, shall regulate entails in such a manner as to prevent perpetuities.

Sec. 38. The penal laws as heretofore used, shall be reformed by the legislature of this state, as soon as may be, and punishments made in some cases less sanguinary, and in general more proportionate to the crimes.

Sec. 39. To deter more effectually from the commission of crimes, by continual visible punishment of long duration, and to make sanguinary punishments less necessary, houses ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital; wherein the criminals shall be employed for the benefit of the public, or for reparation of injuries

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injuries done to private persons; And all persons at proper times shall be admitted to see the prisoners at their labour.

Sect. 40. Every officer, whether judicial, executive, or military, in authority under this commonwealth, shall take the following oath or affirmation of allegiance, and general oath of office, before he enter on the execution of his office: The oath or affirmation of allegiance: "I do swear (or affirm) That I will be true and faithful to the commonwealth of Pennsylvania: And that I will not directly or indirectly do any act or thing prejudicial or injurious to the constitution or government thereof, as established by the convention." The oath or affirmation of office: "I do swear (or affirm) That I will faithfully execute the office of _____ for the _____ of _____ and will do equal right and justice to all men to the best of my judgment and abilities, according to law."

Sect. 41. No public tax, custom, or contribution shall be imposed upon, or paid by the people of this state, except by a law for that purpose, And before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burdens.

Sect. 42. Every foreigner of good character, who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and after one year's residence shall be deemed a free citizen thereof, and intitled to all the rights of a natural born subject of this state; except that he shall not be capable of being elected a representative, until after two years residence.

Sect. 43. The inhabitants of this state shall have liberty to fowl and hunt in seasonable times on the lands they hold, and on all other lands therein, not inclosed; and in like manner to fish in all boatable waters, and others, not private property.

Sect. 44. A school or schools shall be established in each county by the legislature, for the convenient instruction of youth, with such salaries to the masters paid by the public, as may enable them to instruct youth at low prices: And all useful learning shall be duly encouraged and promoted in one or more universities.

Sect. 45. Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution: And all religious societies or bodies of men heretofore united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy,

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or could of right have enjoyed, under the laws and former constitution of this state.

Sec. 46. The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any pretence whatever.

Sec. 47. In order that the freedom of this commonwealth may be preserved inviolate for ever, there shall be chosen by ballot by the freemen in each city and county respectively, on the second Tuesday in October, in the year one thousand seven hundred and eighty three, and on the second Tuesday in October in every seventh year thereafter, two persons in each city and county of this state, to be called, *The Council of Censors*; who shall meet together on the second Monday of November, next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two thirds of the whole number elected shall agree; and whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part? And whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the constitution: They are also to enquire whether the public taxes have been justly laid and collected in all parts of this commonwealth, in what manner the public monies have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the constitution: These powers they shall continue to have, for and during the space of one year from the day of their election, and no longer: The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appear to them an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people: But the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

D E L A W A R E.

A DECLARATION of RIGHTS and Fundamental Rules of the Delaware State, formerly stiled, The Government of the Counties of Newcastle, Kent, and Suffex, upon Delaware.

1. **T**HAT all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

2. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings; and that no man ought, or of right can be compelled to attend any religious worship, or maintain any ministry, contrary to or against his own free will and consent, and that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul the right of conscience, in the free exercise of religious worship.

3. That all persons professing the christian religion, ought for ever to enjoy equal rights and privileges in this state, unless under colour of religion any man disturb the peace, the happiness, or safety of society.

4. That the people of this state have the sole, exclusive, and inherent right of governing and regulating the internal police of the same.

5. That persons intrusted with the legislative and executive powers are the trustees and servants of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered by the legislative singly, or a treacherous combination of both, the people may, and of right ought to establish a new, or reform the old government.

6. That the right in the people to participate in the legislature, is the foundation of liberty and of all free government, and for this end all elections ought to be free and frequent, and every freeman having sufficient evidence of a permanent common interest with, and attachment to the community, hath a right of suffrage.

7. That no power of suspending laws, or the execution of laws, ought to be exercised unless by the legislature.

8. That for redress of grievances, and for amending and strengthening of the laws, the legislature ought to be frequently convened.

9. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

10. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service when necessary, or an equivalent thereto; but no part of a man's property can be justly taken from him, or applied to public uses without his own consent, or that of his legal representatives: Nor can any man that is conscientiously scrupulous of bearing arms in any case, be justly compelled thereto, if he will pay such equivalent.

11. That retrospective laws punishing offences committed before the existence of such laws, are oppressive and unjust, and ought not to be made.

12. That every freeman, for every injury done him in his goods, lands, or person, by any other person, ought to have remedy, by the course of the law of the land, and ought to have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

13. That trial by jury of facts where they arise, is one of the greatest securities of the lives, liberties, and estates of the people.

14. That in all prosecutions for criminal offences, every man hath a right to be informed of the accusation against him, to be allowed counsel, to be confronted with the accusers or witnesses, to examine evidence on oath in his favour, and to a speedy trial, by an impartial jury, without whose unanimous consent he ought not to be found guilty.

15. That no man in the courts of common law ought to be compelled to give evidence against himself.

16. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

17. That all warrants without oath to search suspected places, or to seize any person or his property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend all persons suspected, without naming or describing the place or any person in special, are illegal, and ought not to be granted.

18. That a well regulated militia is the proper, natural, and safe defence of a free government.

19. That standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

20. That in all cases and at all times the military ought to be under strict subordination to, and governed by the civil power.

21. That no soldier ought to be quartered in any house in time of peace, without the consent of the owner; and in time of war in such manner only as the legislature shall direct.

22. That the independency and uprightnes of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people.

23. That the liberty of the press ought to be inviolably preserved.

The CONSTITUTION, or System of Government, agreed to and resolved upon by the Representatives in full CONVENTION of the Delaware State, formerly sli'ed, The Government of the Counties of Newcastle, Kent, and Suffex, upon Delaware; the said Representatives being chosen by the Freemen of the said State for that express Purpose.

1. **T**HE government of the counties of Newcastle, Kent and Suffex, upon Delaware, shall hereafter in all public and other writings be called, *The Delaware State.*
2. The legislature shall be formed of two distinct branches: They shall meet once or oftener in every year, and shall be called, *The General Assembly of Delaware.*
3. One of the branches of the legislature shall be called, *The House of Assembly*, and shall consist of seven representatives to be chosen for each county annually, of such persons as are freeholders of the same.
4. The other branch shall be called, *The Council*, and consist of nine members; three to be chosen for each county at the time of the first election of the assembly, who shall be freeholders of the county for which they are chosen, and be upwards of twenty-five years of age. At the end of one year after the general election, the councillor who had the smallest number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by the freemen of each county choosing the same or another person at a new election in manner aforesaid. At the end of two years after the first general election, the councillor who stood second in number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by a new election in manner aforesaid. And at the end of three years from the first general election, the councillor who had the greatest number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by a new election in manner aforesaid. And this rotation of a councillor being displaced at the end of three years in each county, and his office supplied by a new choice, shall be continued afterwards in due order annually for ever, whereby, after the first general election, a councillor will remain in trust for three years from the time of his being elected, and a councillor will be displaced, and the same or another chosen in each county at every election.
5. The right of suffrage in the election of members for both houses shall remain as exercised by law at present; and each house shall choose its own speaker, appoint its own officers, judge of the qualifications and elections of its own members, settle its own

rules of proceeding, and direct writs of election for supplying intermediate vacancies. They may also severally expel any of their own members for misbehaviour, but not a second time in the same sessions for the same offence, if re-elected; and they shall have all other powers necessary for the legislature of a free and independent state.

6. All money-bills for the support of government shall originate in the house of assembly, and may be altered, amended or rejected by the legislative council. All other bills and ordinances may take rise in the house of assembly or legislative council, and may be altered, amended or rejected by either.

7. A president or chief magistrate shall be chosen by joint ballot of both houses, to be taken in the house of assembly, and the box examined by the speakers of each house in the presence of the other members; and in case the numbers for the two highest in votes should be equal, then the speaker of the council shall have an additional casting voice, and the appointment of the person who has the majority of votes shall be entered at large on the minutes and journals of each house, and a copy thereof on parchment, certified and signed by the speakers respectively, and sealed with the great seal of the state, which they are hereby authorised to affix, shall be delivered to the person so chosen president, who shall continue in that office three years, and until the sitting of the next general assembly and no longer, nor be eligible until the expiration of three years after he shall have been out of that office. An adequate but moderate salary shall be settled on him during his continuance in office. He may draw for such sums of money as shall be appropriated by the general assembly, and be accountable to them for the same; he may, by and with the advice of the privy council, lay embargoes or prohibit the exportation of any commodity for any time not exceeding thirty days, in the recess of the general assembly; he shall have the power of granting pardons or reprieves, except where the prosecution shall be carried on by the house of assembly, or the law shall otherwise direct, in which cases no pardon or reprieve shall be granted, but by a resolve of the house of assembly; and may exercise all the other executive powers of government, limited and restrained as by this constitution is mentioned, and according to the laws of the state. And on his death, inability, or absence from the state, the speaker of the legislative council for the time being shall be vice-president; and in case of his death, inability, or absence from the state, the speaker of the house of assembly shall have the powers of a president, until a new nomination is made by the general assembly.

8. A privy-council consisting of four members shall be chosen by ballot, two by the legislative council, and two by the house of assembly: Provided, that no regular officer of the army or navy in the service and pay of the continent, or of this, or of any other state

state shall be eligible. And a member of the legislative council or of the house of assembly being chosen of the privy-council, and accepting thereof, shall thereby lose his seat. Three members shall be a quorum, and their advice and proceedings shall be entered on record, and signed by the members present, (to any part of which any member may enter his dissent) to be laid before the general assembly, when called for by them. Two members shall be removed by ballot, one by the legislative council, and one by the house of assembly, at the end of two years, and those who remain the next year after, who shall severally be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections in the same manner. And this rotation of a privy-councillor shall be continued afterwards in due order annually for ever. The president may by summons convene the privy-council at any time when the public exigencies may require, and at such place as he shall think most convenient, when and where they are to attend accordingly.

9. The president, with the advice and consent of the privy-council, may embody the militia, and act as captain-general and commander in chief of them, and the other military force of this state, under the laws of the same.

10. Either house of the general assembly may adjourn themselves respectively. The president shall not prorogue, adjourn, or dissolve the general assembly, but he may, with the advice of the privy-council, or on the application of a majority of either house, call them before the time to which they shall stand adjourned; and the two houses shall always sit at the same time and place, for which purpose immediately after every adjournment, the speaker of the house of assembly shall give notice to the speaker of the other house of the time to which the house of assembly stands adjourned.

11. The delegates for Delaware to the congress of the united states of America, shall be chosen annually, or superseded in the mean time, by joint ballot of both houses in the general assembly.

12. The president and general assembly shall by joint ballot appoint three justices of the supreme court for the state, one of whom shall be chief-justice, and a judge of admiralty, and also four justices of the courts of common pleas and orphans courts for each county, one of whom in each court shall be styled *Chief Justice* (and in case of division on the ballot, the president shall have an additional casting voice) to be commissioned by the president under the great seal, who shall continue in office during good behaviour; and during the time the justices of the said supreme court and courts of common-pleas remain in office, they shall hold none other except in the militia; any one of the justices of either of said courts shall have power in case of the non-coming of his brethren,

brethren, to open and adjourn the court. An adequate, fixed, but moderate salary shall be settled on them during their continuance in office. The president and privy council shall appoint the secretary, the attorney-general, registers for the probate of wills, and granting letters of administration, registers in chancery, clerks of the courts of common-pleas and orphans courts, and clerks of the peace, who shall be commissioned as aforesaid, and remain in office during five years, if they behave themselves well; during which time the said registers in chancery and clerks shall not be justices of either of the said courts of which they are officers, but they shall have authority to sign all writs by them issued, and take recognizances of bail. The justices of the peace shall be nominated by the house of assembly, that is to say, They shall name twenty-four persons for each county, of whom the president, with the approbation of the privy-council, shall appoint twelve, who shall be commissioned as aforesaid, and continue in office during seven years, if they behave themselves well; and in case of vacancies, or if the legislature shall think proper to increase the number, they shall be nominated and appointed in like manner. The members of the legislative and privy councils shall be justices of the peace for the whole state, during their continuance in trust; and the justices of the courts of common-pleas shall be conservators of the peace in their respective counties.

13. The justices of the courts of common-pleas and orphans courts shall have the power of holding inferior courts of chancery as heretofore, unless the legislature shall otherwise direct.

14. The clerks of the supreme court shall be appointed by the chief justice thereof, and the recorders of deeds by the justices of the courts of common-pleas for each county severally, and commissioned by the president under the great seal, and continue in office five years, if they behave themselves well.

15. The sheriffs and coroners of the respective counties shall be chosen annually as heretofore; and any person having served three years as sheriff, shall be ineligible for three years after; and the president and privy-council shall have the appointment of such of the two candidates returned for the said offices of sheriffs and coroners, as they shall think best qualified, in the same manner that the governor heretofore enjoyed this power.

16. The general assembly by joint ballot shall appoint the generals and field-officers, and all other officers in the army or navy of this state. And the president may appoint during pleasure, until otherwise directed by the legislature, all necessary civil officers not herein before-mentioned.

17. There shall be an appeal from the supreme court of Delaware in matters of law and equity, to a court of seven persons, to consist of the president for the time being, who shall preside therein, and six others, to be appointed, three by the legislative council,

council, and three by the house of assembly, who shall continue in office during good behaviour, and be commissioned by the president under the great seal; which court shall be styled, *The Court of Appeals*, and have all the authority and powers heretofore given by law in the last resort to the king in council, under the old government. The secretary shall be the clerk of this court, and vacancies therein occasioned by death or incapacity, shall be supplied by new elections in manner aforesaid.

18. The justices of the supreme court and courts of common-pleas, the members of the privy-council, the secretary, the trustees of the loan-office, and clerks of the courts of common-pleas, during their continuance in office, and all persons concerned in any army or navy contracts, shall be ineligible to either house of assembly; and any member of either house accepting of any other of the offices herein before mentioned (excepting the office of a justice of the peace) shall have his seat thereby vacated, and a new election shall be ordered.

19. The legislative council and assembly shall have the power of making the great seal of this state, which shall be kept by the president, or in his absence by the vice-president, to be used by them as occasion may require. It shall be called, *The Great Seal of the Delaware State*, and shall be affixed to all laws and commissions.

20. Commissions shall run in the name of *The Delaware State*, and bear test by the president. Writs shall run in the same manner, and bear test in the name of the chief justice, or justice first named in the commissions for the several courts, and be sealed with the public seals of such courts. Indictments shall conclude, *Against the peace and dignity of the state.*

21. In case of vacancy of the offices above directed to be filled by the president and general assembly, the president and privy-council may appoint others in their stead, until there shall be a new election.

22. Every person who shall be chosen a member of either house, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take the following oath, or affirmation if conscientiously scrupulous of taking an oath, *to wit,*

“I, A. B. will bear true allegiance to the Delaware State, submit to its constitution and laws, and do no act wittingly whereby the freedom thereof may be prejudiced.”

And also make and subscribe the following declaration, *to wit,*

“I, A. B. do profess faith in God the Father, and in Jesus Christ his only Son, and the Holy Ghost, one God, blessed for evermore; and I do acknowledge the holy scriptures of the Old and New Testament to be given by divine inspiration.”

And all officers shall also take an oath of office.

23. The president when he is out of office, and within eighteen months after, and all others, offending against the state, either by mal-administration, corruption, or other means, by which the safety of the commonwealth may be endangered, within eighteen months after the offence committed, shall be impeachable by the house of assembly before the legislative council; such impeachment to be prosecuted by the attorney-general, or such other person or persons as the house of assembly may appoint, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or removed from office *pro tempore*, or subjected to such pains and penalties as the laws shall direct. And all officers shall be removed on conviction of misbehaviour at common law, or on impeachment, or upon the address of the general assembly.

24. All acts of assembly in force in this state on the fifteenth day of May last (and not hereby altered, or contrary to the resolutions of congress, or of the late house of assembly of this state) shall so continue until altered or repealed by the legislature of this state, unless where they are temporary, in which case they shall expire at the times respectively limited for their duration.

25. The common law of England, as well as so much of the statute law as have been heretofore adopted in practice in this state, shall remain in force, unless they shall be altered by a future law of the legislature; such parts only excepted as are repugnant to the rights and privileges contained in this constitution and the declaration of rights, &c. agreed to by this convention.

26. No person hereafter imported into this state from Africa ought to be held in slavery under any pretence whatever, and no negro, Indian, or mulatto slave, ought to be brought into this state for sale from any part of the world.

27. The first election for the general assembly of this state shall be held on the twenty-first day of October next, at the court houses in the several counties, in the manner heretofore used in the election of the assembly, except as to choice of inspectors and assessors, where assessors have not been chosen on the sixteenth day of September instant, which shall be made on the morning of the day of election, by the electors, inhabitants of the respective hundreds in each county; at which time the sheriffs and coroners for the said counties respectively are to be elected; and the present sheriffs of the counties of Newcastle and Kent may be re-chosen to that office until the first day of October in the year of our Lord one thousand seven hundred and seventy-nine, and the present sheriff for the county of Sussex may be re-chosen to that office until the first day of October in the year of our Lord one thousand seven hundred and seventy-eight, provided the freemen think proper to re-elect them at every general election;

and the present sheriffs and coroners respectively shall continue to exercise their offices as heretofore, until the sheriffs and coroners to be elected on the said twenty-first day of October shall be commissioned and sworn into office. The members of the legislative council and assembly shall meet for transacting the business of the state on the twenty-eighth day of October next, and continue in office until the first day of October which will be in the year one thousand seven hundred and seventy-seven; on which day, and on the first day of October in each year forever after, the legislative council, assembly, sheriffs, and coroners, shall be chosen by ballot in manner directed by the several laws of this state, for regulating elections of members of assembly, and sheriffs and coroners; and the general assembly shall meet on the twentieth day of the same month, for transacting the business of the state; and if any of the said first and twentieth days of October should be Sunday, then, and in such case, the elections shall be held and the general assembly meet the next day following.

28. To prevent any violence or force being used at the said elections, no persons shall come armed to any of them; and no muster of the militia shall be made on that day, nor shall any battalion or company give in their votes immediately succeeding each other, if any other voter who offers to vote objects thereto; nor shall any battalion or company in the pay of the continent, or of this or any other state, be suffered to remain at the time and place of holding the said elections, nor within one mile of the said places respectively, for twenty-four hours before the opening said elections, nor within twenty-four hours after the same are closed, so as in any manner to impede the freely and conveniently carrying on the said election: Provided always, that every elector may in a peaceable and orderly manner give in his vote on the said day of election.

29. There shall be no establishment of any one religious sect in this state in preference to another; and no clergyman or preacher of the gospel of any denomination shall be capable of holding any civil office in this state, or of being a member of either of the branches of the legislature, while they continue in the exercise of the pastoral function.

30. No article of the declaration of rights and fundamental rules of this state, agreed to by this convention, nor the first, second, fifth (except that part thereof that relates to the right of suffrage), twenty-sixth and twenty-ninth articles of this constitution, ought ever to be violated on any pretence whatever. No other part of this constitution shall be altered, changed or diminished, without the consent of five parts in seven of the assembly, and seven members of the legislative council.

Friday, September 20, 1776.

O

MARYLAND.

M A R Y L A N D.

A DECLARATION of RIGHTS, and the CONSTITUTION
and FORM of GOVERNMENT agreed to by the Delegates of
Maryland, in free and full CONVENTION assembled.

A DECLARATION of RIGHTS, &c.

THE parliament of Great Britain, by a declaratory act, having assumed a right to make laws to bind the colonies in all cases whatsoever, and in pursuance of such claim endeavoured by force of arms to subjugate the united colonies to an unconditional submission to their will and power, and having at length constrained them to declare themselves independent states, and to assume government under the authority of the people: Therefore, we, the delegates of Maryland, in free and full convention assembled, taking into our most serious consideration the best means of establishing a good constitution in this state, for the sure foundation and more permanent security thereof, declare,

1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

2. That the people of this state ought to have the sole and exclusive right of regulating the internal government and police thereof.

3. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed at the time of their first emigration, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England, or Great-Britain, and have been introduced, used, and practised, by the courts of law or equity; and also to all acts of assembly in force on the first of June seventeen hundred and seventy-four, except such as may have since expired, or have been, or may be altered by acts of convention, or this declaration of rights, subject nevertheless to the revision of, and amendment or repeal by, the legislature of this state; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his Majesty Charles I, to Cæcilius Calvert, baron of Baltimore.

4. That

4. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old or establish a new government; the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

5. That the right in the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose, elections ought to be free and frequent, and every man having property in, a common interest with, and attachment to the community, ought to have a right of suffrage.

6. That the legislative, executive, and judicial powers of government, ought to be forever separate and distinct from each other.

7. That no power of suspending laws, or the execution of laws, unless by, or derived from the legislature, ought to be exercised or allowed.

8. That freedom of speech and debates, or proceedings in the legislature, ought not to be impeached in any other court of judicature.

9. That a place for the meeting of the legislature ought to be fixed, the most convenient to the members thereof, and to the depository of public records, and the legislature ought not to be convened or held at any other place, but from evident necessity.

10. That for redress of grievances, and for amending, strengthening and preserving the laws, the legislature ought to be frequently convened.

11. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

12. That no aid, charge, tax, fee or fees, ought to be set, rated, or levied, under any pretence, without consent of the legislature.

13. That the levying taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of government, but every other person in the state ought to contribute his proportion of public taxes for the support of government, according to his actual worth in real or personal property within the state; yet fines, duties, or taxes, may properly and justly be imposed or laid with a political view for the good government and benefit of the community.

14. That sanguinary laws ought to be avoided, as far as is consistent with the safety of the state; and no law to inflict

cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

15. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, wherefore no *ex post facto* law ought to be made.

16. That no law to attain particular persons of treason or felony ought to be made in any case, or any time hereafter.

17. That every freeman, for any injury done him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

18. That the trial of facts where they arise, is one of the greatest securities of the lives, liberties, and estates of the people.

19. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him, to have a copy of the indictment or charge in due time (if required) to prepare for his defence, to be allowed counsel, to be confronted with the witnesses against him, to have process for his witnesses, to examine the witnesses for and against him on oath, and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty,

20. That no man ought to be compelled to give evidence against himself in a court of common law, or in any other court, but in such cases as have been usually practised in this state, or may hereafter be directed by the legislature.

21. That no freeman ought to be taken or imprisoned, or disseised of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land.

22. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted by the courts of law.

23. That all warrants without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

24. That there ought to be no forfeiture of any part of the estate of any person for any crime, except murder, or treason against the state, and then only on conviction and attainder,

25. That a well regulated militia is the proper and natural defence of a free government,

26. That

26. That standing armies are dangerous to liberty, and ought not to be raised or kept without consent of the legislature.

27. That in all cases and at all times the military ought to be under strict subordination to, and controul of the civil power.

28. That no soldier ought to be quartered in any house in time of peace, without the consent of the owner; and in time of war, in such manner only as the legislature shall direct.

29. That no person, except regular soldiers, mariners, and marines in the service of this state, or militia when in actual service, ought in any case to be subject to, or punishable by, martial law.

30. That the independency and uprightnes of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the chancellor and judges ought to hold commissions during good behaviour, and the said chancellor and judges shall be removed for misbehaviour, on conviction in a court of law, and may be removed by the governor upon the address of the general assembly, provided that two-thirds of all the members of each house concur in such address. That salaries liberal but not profuse ought to be secured to the chancellor and the judges during the continuance of their commissions, in such manner and at such times as the legislature shall hereafter direct; upon consideration of the circumstances of this state: No chancellor or judge ought to hold any other office, civil or military, or receive fees or perquisites of any kind.

31. That a long continuance in the first executive departments of power or trust is dangerous to liberty, a rotation therefore in those departments is one of the best securities of permanent freedom.

32. That no person ought to hold at the same time more than one office of profit, nor ought any person in public trust to receive any present from any foreign prince or state, or from the united states, or any of them, without the approbation of this state.

33. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to him, all persons professing the christian religion are equally entitled to protection in their religious liberty; wherefore no person ought by any law to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless under colour of religion, any man shall disturb the good order, peace, or safety of the state, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain, or contribute, unless on contract, to maintain any particu-

particular place of worship, or any particular ministry; yet the legislature may in their discretion lay a general and equal tax for the support of the christian religion; leaving to each individual the power of appointing the payment over of the money collected from him, to the support of any particular place of worship or minister, or for the benefit of the poor of his own denomination, or the poor in general of any particular county; but the churches, chapels, glebes, and all other property now belonging to the church of England, ought to remain to the church of England for ever. And all acts of assembly lately passed for collecting monies for building or repairing particular churches or chapels of ease, shall continue in force and be executed, unless the legislature shall by act supersede or repeal the same; but no county court shall assess any quantity of tobacco or sum of money hereafter, on the application of any vestry-men or church-wardens; and every incumbent of the church of England, who hath remained in his parish, and performed his duty, shall be entitled to receive the provision and support established by the act, entitled, "An act for the support of the clergy of the church of England in this province," till the November court of this present year, to be held for the county in which his parish shall lie, or partly lie, or for such time as he hath remained in his parish and performed his duty.

34. That every gift, sale, or devise of lands to any minister, public teacher or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to, or for the support, use, or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, or to or for such support, use or benefit; and also every devise of goods or chattels to, or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, without the leave of the legislature, shall be void; except always any sale, gift, lease or devise of any quantity of land not exceeding two acres, for a church, meeting, or other house of worship, and for a burying ground, which shall be improved, enjoyed, or used only for such purpose, or such sale, gift, lease, or devise, shall be void.

35. That no other test or qualification ought to be required on admission to any office of trust or profit, than such oath of support and fidelity to this state, and such oath of office as shall be directed by this convention, or the legislature of this state, and a declaration of a belief in the christian religion.

36. That the manner of administering an oath to any person, ought to be such as those of the religious persuasion, profession,

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or denomination, of which such person is one, generally esteem the most effectual confirmation by the attestation of the Divine Being. And that the people called Quakers, those called Dunkers, and those called Menonists, holding it unlawful to take an oath on any occasion, ought to be allowed to make their solemn affirmation in the manner that Quakers have been heretofore allowed to affirm, and to be of the same avail as an oath in all such cases, as the affirmation of Quakers hath been allowed and accepted within this state, instead of an oath. And further, on such affirmation, warrants to search for stolen goods, or for the apprehension or commitment of offenders, ought to be granted, or security for the peace awarded, and Quakers, Dunkers, or Menonists, ought also, on their solemn affirmation as aforesaid, to be admitted as witnesses in all criminal cases not capital.

37. That the city of Annapolis ought to have all its rights, privileges, and benefits, agreeable to its charter, and the acts of assembly confirming and regulating the same, subject nevertheless to such alterations as may be made by this convention or any future legislature.

38. That the liberty of the press ought to be inviolably preserved.

39. That monopolies are odious, contrary to the spirit of a free government, and the principles of commerce, and ought not to be suffered.

40. That no title of nobility or hereditary honours ought to be granted in this state.

41. That the subsisting resolves of this and the several conventions held for this colony, ought to be in force as laws, unless altered by this convention or the legislature of this state.

42. That this declaration of rights, or the form of government to be established by this convention, or any part of either of them, ought not to be altered, changed, or abolished by the legislature of this state, but in such manner as this convention shall prescribe and direct.

This declaration of rights was assented to and passed in convention of the delegates of the freemen of Maryland, begun and held at Annapolis the 14th day of August, *A. D.* 1776.

By order of the convention,

MAT. TILGHMAN, *President.*

The CONSTITUTION, or FORM of GOVERNMENT, &c.

1. **T**HAT the legislature consist of two distinct branches, a senate, and a house of delegates, which shall be styled, *The General Assembly of Maryland.*

2. That the house of delegates shall be chosen in the following manner: All freemen above twenty-one years of age, having a freehold of fifty acres of land in the county in which they offer to vote, and residing therein; and all freemen having property in this state above the value of thirty pounds current money, and having resided in the county in which they offer to vote, one whole year next preceding the election, shall have a right of suffrage in the election of delegates for such county; and all freemen so qualified shall, on the first Monday of October seventeen hundred and seventy-seven, and on the same day in every year thereafter, assemble in the counties in which they are respectively qualified to vote, at the court-house in the said counties, or at such other place as the legislature shall direct, and when assembled they shall proceed to elect, *viva voce*, four delegates for their respective counties, of the most wise, sensible, and discreet of the people, residents in the county where they are to be chosen one whole year next preceding the election, above twenty-one years of age, and having in the state real or personal property above the value of five hundred pounds current money, and upon the final casting of the polls, the four persons who shall appear to have the greatest number of legal votes, shall be declared and returned duly elected for their respective counties.

3. That the sheriff of each county, or in case of sickness, his deputy (summoning two justices of the county, who are required to attend for the preservation of the peace) shall be the judge of the election, and may adjourn from day to day, if necessary, till the same be finished, so that the whole election shall be concluded in four days; and shall make his return thereof, under his hand, to the chancellor of this state for the time being.

4. That all persons, qualified by the charter of the city of Annapolis to vote for burgesses, shall on the same first Monday of October seventeen hundred and seventy-seven, and on the same day in every year for ever thereafter, elect *viva voce*, by a majority of votes, two delegates, qualified agreeable to the said charter; that the mayor, recorder, and aldermen of the said city, or any three of them, be judges of the election, appoint the place in the said city for holding the same, and may adjourn from day to day as aforesaid, and shall make return thereof as aforesaid; but the inhabitants of the said city shall not be entitled to vote for delegates for Anne-Arundel county, unless they have a
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freehold of fifty acres of land in the county, distinct from the city.

5. That all persons, inhabitants of Baltimore town, and having the same qualifications as electors, in the county, shall, on the same first Monday in October seventeen hundred and seventy-seven, and on the same day in every year for ever thereafter, at such place in the said town as the judges shall appoint, elect *viva voce* , by a majority of votes, two delegates, qualified as aforesaid; but if the said inhabitants of the town shall so decrease, as that the number of persons having a right of suffrage therein, shall have been for the space of seven years successively less than one half the number of voters in some one county in this state, such town thenceforward cease to send two delegates or representatives to the house of delegates, until the said town shall have one half of the number of voters in some one county in this state.

6. That the commissioners of the said town, or any three or more of them, for the time being, shall be judges of the said election, and may adjourn as aforesaid, and shall make return thereof as aforesaid; but the inhabitants of the said town shall not be entitled to vote for, or be elected delegates for Baltimore county; neither shall the inhabitants of Baltimore county, out of the limits of Baltimore town, be entitled to vote for, or be elected delegates for the said town.

7. That on refusal, death, disqualification, resignation, or removal out of this state, of any delegate, or on his becoming governor, or member of the council, a warrant of election shall issue by the speaker, for the election of another in his place, of which ten days notice at least, excluding the day of notice and day of election, shall be given.

8. That not less than a majority of delegates, with their speaker (to be chosen by them by ballot) constitute an house for the transaction of any business, other than that of adjourning.

9. That the house of delegates shall judge of the elections and qualifications of delegates.

10. That the house of delegates may originate all money bills, propose bills to the senate or receive those offered by that body, and assent, dissent, or propose amendments; that they may inquire, on the oath of witnesses, into all complaints, grievances, and offences, as the grand inquest of this state, and may commit any person for any crime to the public jail, there to remain till he be discharged by due course of law; they may expel any member for a great misdemeanor, but not a second time for the same cause; they may examine and pass all accounts of the state, relating either to the collection or expenditure of the revenue, or appoint auditors to state and adjust the same; they may call for

all public or official papers and records, and send for persons, whom they may judge necessary, in the course of their inquiries, concerning affairs relating to the public interest, and may direct all office bonds (which shall be made payable to the state) to be sued for on any breach of duty.

11. That the senate may be at full and perfect liberty to exercise their judgement in passing laws, and that they may not be compelled by the house of delegates either to reject a money bill which the emergency of affairs may require, or to assent to some other act of legislation, in their conscience and judgement injurious to the public welfare; the house of delegates shall not on any occasion, or under any pretence, annex to, or blend with a money bill, any matter, clause, or thing, not immediately relating to, and necessary for the imposing, assessing, levying, or applying the taxes or supplies, to be raised for the support of government, or the current expences of the state; and to prevent altercation about such bills, it is declared, that no bill imposing duties or customs for the mere regulation of commerce, or inflicting fines for the reformation of morals, or to enforce the execution of the laws, by which an incidental revenue may arise, shall be accounted a money bill; but every bill assessing, levying or applying taxes or supplies for the support of government, or the current expences of the state, or appropriating money in the treasury, shall be deemed a money bill.

12. That the house of delegates may punish, by imprisonment, any person who shall be guilty of a contempt in their view, by any disorderly or riotous behaviour, or by threats to, or abuse of their members, or by any obstruction to their proceedings; they may also punish, by imprisonment, any person who shall be guilty of a breach of privilege, by arresting on civil process, or by assaulting any of their members, during their sitting, or on their way to, or return from the house of delegates, or by any assault of, or obstruction to their officers, in the execution of any order or process, or by assaulting or obstructing any witness, or any other person, attending on, or on their way to, or from the house, or by rescuing any person committed by the house; and the senate may exercise the same power, in similar cases.

13. That the treasurers (one for the western and another for the eastern shore) and the commissioners of the loan office may be appointed by the house of delegates during their pleasure, and in case of refusal, death, resignations, disqualification, or removal out of the state of any of the said commissioners or treasurers, in the recess of the general assembly, the governor, with the advice of the council, may appoint and commission a fit and proper person to such vacant office, and to hold the same until the meeting of the next general assembly.

14. That

14. That the senate be chosen in the following manner: All persons, qualified as aforesaid to vote for county delegates, shall, on the first day of September, 1781, and on the same day in every fifth year for ever thereafter, elect *viva voce*, by a majority of votes, two persons for their respective counties, qualified as aforesaid to be elected county delegates, to be electors of the senate; and the sheriff of each county, or in case of sickness, his deputy (summoning two justices of the county, who are required to attend for the preservation of the peace) shall hold and be judge of the said election, and make return thereof as aforesaid. And all persons qualified as aforesaid, to vote for delegates for the city of Annapolis and Baltimore town, shall on the same first Monday of September 1781, and on the same day in every fifth year for ever thereafter, elect *viva voce*, by a majority of votes, one person for the said city and town respectively, qualified as aforesaid, to be elected a delegate for the said city and town respectively; the said election to be held in the same manner as the election of delegates for the said city and town, the right to elect the said elector with respect to Baltimore town to continue as long as the right to elect delegates for the said town.

15. That the said electors of the senate meet at the city of Annapolis, or such other place as shall be appointed for convening the legislature, on the third Monday in September 1781, and on the same day in every fifth year for ever thereafter, and they, or any twenty-four of them so met, shall proceed to elect, by ballot, either out of their own body, or the people at large, fifteen senators (nine of whom to be residents on the western, and six to be residents on the eastern shore) men of the most wisdom, experience and virtue, above twenty-five years of age, residents of the state above three whole years next preceding the election, and having real and personal property above the value of one thousand pounds current money.

16. That the senators shall be balloted for, at one and the same time, and out of the gentlemen residents of the western shore, who shall be proposed as senators, the nine who shall, on striking the ballots, appear to have the greatest number in their favour, shall be accordingly declared and returned duly elected; and out of the gentlemen residents of the eastern shore, who shall be proposed as senators, the six who shall, on striking the ballots, appear to have the greatest number in their favour, shall be accordingly declared and returned duly elected; and if two or more, on the same shore, shall have an equal number of ballots in their favour, by which the choice shall not be determined on the first ballot, then the electors shall again ballot before they separate, in which they shall be confined to the persons who on the first ballot shall have had an equal number; and they who shall have the greatest number in their favour on the second ballot, shall be accordingly

ordingly declared and returned duly elected; and if the whole number should not thus be made up, because of an equal number on the second ballot still being in favour of two or more persons, then the election shall be determined by lot, between those who have equal numbers; which proceedings of the electors shall be certified under their hands, and returned to the chancellor for the time being.

17. That the electors of senators shall judge of the qualifications and elections of members of their body, and on a contested election shall admit to a seat, as an elector, such qualified person as shall appear to them to have the greatest number of legal votes in his favour.

18. That the electors immediately on their meeting, and before they proceed to the election of senators, take such oath of support and fidelity to this state, as this convention or the legislature shall direct, and also an oath, "to elect, without favour, affection, partiality, or prejudice, such persons for senators as they, in their judgement and conscience, believe best qualified for the office."

19. That in case of refusal, death, resignation, disqualification, or removal out of this state, of any senator, or on his becoming governor, or a member of the council, the senate shall immediately thereupon, or at their next meeting thereafter, elect by ballot, in the same manner as the electors are above directed to chuse senators, another person in his place for the residue of the said term of five years.

20. That not less than a majority of the senate, with their president (to be chosen by them by ballot) shall constitute an house for the transacting any business, other than that of adjourning.

21. That the senate shall judge of the elections and qualifications of senators.

22. That the senate may originate any other, except money bills, to which their assent or dissent only shall be given, and may receive any other bills from the house of delegates, and assent, dissent, or propose amendments.

23. That the general assembly meet annually, on the first Monday of November, and if necessary oftener.

24. That each house shall appoint its own officers, and settle its own rules of proceeding.

25. That a person of wisdom, experience and virtue, shall be chosen governor, on the second Monday of November seventeen hundred and seventy-seven, and on the second Monday in every year for ever thereafter, by the joint ballot of both houses, to be taken in each house respectively, deposited in a conference room; the boxes to be examined by a joint committee of both houses, and the numbers severally reported, that the appointment may be entered;

tered; which mode of taking the joint ballot of both houses shall be adopted in all cases. But if two or more shall have an equal number of ballots in their favour, by which the choice shall not be determined on the first ballot, then a second ballot shall be taken, which shall be confined to the persons who on the first ballot shall have had an equal number; and if the ballots should again be equal between two or more persons, then the election of the governor shall be determined by lot, between those who have equal numbers; and if the person chosen governor shall die, resign, remove out of the state, or refuse to act (sitting the general assembly) the senate and house of delegates shall immediately thereupon proceed to a new choice in manner aforesaid.

26. That the senators and delegates, on the second Tuesday of November, 1777, and annually on the second Tuesday of November for ever thereafter, elect by joint ballot, in the same manner as senators are directed to be chosen, five of the most sensible, discreet, and experienced men, above twenty-five years of age, residents in the state above three years next preceding the election, and having therein a freehold of lands and tenements above the value of one thousand pounds current money, to be the council to the governor, whose proceedings shall be always entered on record, to any part whereof any member may enter his dissent; and their advice if so required by the governor, or any member of the council, shall be given in writing, and signed by the members giving the same respectively; which proceedings of the council shall be laid before the senate, or house of delegates, when called for by them, or either of them. The council may appoint their own clerk, who shall take such oath of support and fidelity to this state as this convention or the legislature shall direct, and of secrecy, in such matters as he shall be directed by the board to keep secret.

27. That the delegates to congress from this state shall be chosen annually, or superseded in the mean time by the joint ballot of both houses of assembly, and that there be a rotation in such manner that at least two of the number be annually changed, and no person shall be capable of being a delegate to congress for more than three in any term of six years; and no person who holds any office of profit in the gift of congress shall be eligible to sit in congress, but if appointed to any such office his seat shall be thereby vacated. That no person, unless above twenty-one years of age, and a resident in the state more than five years next preceding the election, and having real and personal estate in this state above the value of one thousand pounds current money, shall be eligible to sit in congress.

28. That the senators and delegates, immediately on their annual meeting, and before they proceed to any business, and every person

person hereafter elected a senator or delegate, before he acts as such, shall take an oath of support and fidelity to this state as aforesaid; and before the election of a governor, or members of the council, shall take an oath, "to elect without favour, affection, partiality, or prejudice, such person as governor, or member of the council, as they in their judgement and conscience believe best qualified for the office."

29. That the senate and delegates may adjourn themselves respectively: but if the two houses should not agree on the same time, but adjourn to different days, then shall the governor appoint and notify one of those days or some day between, and the assembly shall then meet and be held accordingly; and he shall, if necessary, by advice of the council, call them before the time to which they shall in any manner be adjourned, on giving not less than ten days notice thereof, but the governor shall not adjourn the assembly otherwise than as aforesaid, nor prorogue or dissolve it at any time.

30. That no person, unless above twenty-five years of age, a resident in this state above five years next preceding the election, and having in the state real and personal property above the value of five thousand pounds current money, one thousand pounds whereof at least to be freehold estate, shall be eligible as governor.

31. That the governor shall not continue in that office longer than three years successively, nor be eligible as governor until the expiration of four years after he shall have been out of that office.

32. That upon the death, resignation, or removal out of this state of the governor, the first named of the council, for the time being, shall act as governor, and qualify in the same manner, and shall immediately call a meeting of the general assembly, giving not less than fourteen days notice of the meeting, at which meeting a governor shall be appointed, in manner aforesaid, for the residue of the year.

33. That the governor, by and with the advice and consent of the council, may embody the militia, and when embodied shall alone have the direction thereof, and shall also have the direction of all the regular land and sea forces under the laws of this state; but he shall not command in person, unless advised thereto by the council, and then only so long as they shall approve thereof; and may alone exercise all other the executive powers of government, where the concurrence of the council is not required, according to the laws of this state, and grant reprieves or pardons for any crime, except in such cases where the law shall otherwise direct; and may, during the recess of the general assembly, lay embargoes to prevent the departure of any shipping, or the exportation of any commodities, for any time not exceeding thirty days in any

any one year, summoning the general assembly to meet within the time of the continuance of such embargo; and may also order and compel any vessel to ride quarantain, if such vessel, or the port from which she may have come, shall, on strong grounds, be suspected to be infected with the plague; but the governor shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom, of England or Great-Britain.

34. That the members of the council, or any three or more of them, when convened, shall constitute a board for the transacting of business; that the governor for the time being shall preside in the council, and be intitled to a vote on all questions in which the council shall be divided in opinion; and in the absence of the governor the first named of the council shall preside, and as such shall also vote in all cases where the other members disagree in their opinion.

35. That in case of refusal, death, resignation, disqualification, or removal out of the state, of any person chosen a member of the council, the members thereof, immediately thereupon, or at their next meeting thereafter, shall elect by ballot, another person qualified as aforesaid, in his place, for the residue of the year.

36. That the council shall have power to make the great seal of this state, which shall be kept by the chancellor for the time being, and affixed to all laws, commissions, grants, and other public testimonials, as has been heretofore practised in this state.

37. That no senator, delegate of assembly, or member of the council, if he shall qualify as such, shall hold or execute any office of profit, or receive the profits of any office exercised by any other person, during the time for which he shall be elected; nor shall any governor be capable of holding any other office of profit in this state, while he acts as such; and no person holding a place of profit, or receiving any part of the profits thereof, or receiving the profits or any part of the profits arising on any agency for the supply of cloathing or provisions for the army or navy, or holding any office under the united states, or any of them, or a minister or preacher of the gospel of any denomination, or any person employed in the regular land service, or marine, of this or the united states, shall have a seat in the general assembly, or the council of this state.

38. That every governor, senator, delegate to congress, or assembly, and member of the council, before he acts as such, shall take an oath, "That he will not receive, directly or indirectly at any time, any part of the profits of any office held by any other person during his acting in his office of governor, senator, delegate to congress, or assembly, or member of the council, or the profits, or any part of the profits, arising on any agency, for the supply of cloathing or provisions for the army or navy."

39. That

39. That if any senator, delegate to congress or assembly, or member of the council, shall hold or execute any office of profit, or receive, directly or indirectly, at any time, the profits, or any part of the profits, of any office exercised by any other person, during his acting as senator, delegate to congress or assembly, or member of the council, his seat, on conviction in a court of law, by the oath of two credible witnesses, shall be void, and he shall suffer the punishment for wilful and corrupt perjury, or be banished this state for ever, or disqualified for ever from holding any office or place of trust or profit, as the court may judge.

40. That the chancellor, all judges, the attorney-general, clerks of the general court, the clerks of the county courts, the registers of the land office, and the registers of wills, shall hold their commissions during good behaviour, removable only for misbehaviour, on conviction in a court of law.

41. That there be a register of wills appointed for each county, who shall be commissioned by the governor, on the joint recommendation of the senate and house of delegates; and that upon the death, resignation, disqualification, or removal out of the county, by any register of wills, in the recess of the general assembly, the governor, with the advice of the council, may appoint and commission a fit and proper person to such vacant office, to hold the same until the meeting of the general assembly.

42. That sheriffs shall be elected in each county, by ballot, every third year, that is to say, two persons for the office of sheriff for each county, the one of whom having the majority of votes, or if both have an equal number, either of them, at the discretion of the governor, to be commissioned by the governor for the said office, and having served for three years, such person shall be ineligible for the four years next succeeding, bond with security to be taken every year as usual, and no sheriff shall be qualified to act before the same is given. In case of death, refusal, resignation, disqualification, or removal out of the county, before the expiration of the three years, the other person, chosen as aforesaid, shall be commissioned by the governor to execute the said office for the residue of the said three years, the said person giving bond with security as aforesaid; and in case of his death, refusal, resignation, disqualification, or removal out of the county, before the expiration of the said three years, the governor, with the advice of the council, may nominate and commission a fit and proper person to execute the said office for the residue of the said three years, the said person giving bond and security as aforesaid; the election shall be held at the same time and place appointed for the election of delegates, and the justices there summoned to attend for the preservation of the peace, shall be judges thereof, and of the qualification of candidates, who shall appoint a clerk to take the ballots: all freemen above the age of twenty-one years, having

having a freehold of fifty acres of land, in the county in which they offer to ballot, and residing therein, and all freemen above the age of twenty-one years, and having property in the state above the value of thirty pounds current money, and having resided in the county in which they offer to ballot, one whole year next preceding the election, shall have a right of suffrage; no person to be eligible to the office of sheriff for a county, but an inhabitant of the said county, above the age of twenty-one years, and having real and personal property in the state above the value of one thousand pounds current money: the justices aforesaid shall examine the ballots, and the two candidates properly qualified, having in each county the majority of legal ballots, shall be declared duly elected for the office of sheriff for such county, and returned to the governor and council, with a certificate of the number of ballots for each of them.

43. That every person who shall offer to vote for delegates, or for the election of the senate, or for the sheriff, shall (if required by any three persons qualified to vote), before he be admitted to poll, take such oath or affirmation of support and fidelity to this state, as this convention or the legislature shall direct.

44. That a justice of the peace may be eligible as a senator, delegate, or member of the council, and may continue to act as a justice of the peace.

45. That no field officer of the militia be eligible as a senator, delegate, or member of the council.

46. That all civil officers hereafter to be appointed for the several counties of this state, shall have been residents of the county respectively for which they shall be appointed, six months next before their appointment, and shall continue residents of their county respectively, during their continuance in office.

47. That the judges of the general court, and justices of the county courts, may appoint the clerks of their respective courts, and in case of refusal, death, resignation, disqualification, or removal out of the county of any the said county clerks in the vacation of the county court of which he is clerk, the governor with the advice of the council may appoint and commission a fit and proper person to such vacant office respectively, to hold the same until the meeting of the next general court, or county court, as the case may be.

48. That the governor for the time being, with the advice and consent of the council, may appoint the chancellor, and all judges and justices, the attorney-general, naval officers, officers in the regular land and sea service, officers of the militia, registers of the land office, surveyors, and all other civil officers of government (assessors, constables and overseers of the roads only excepted), and may also suspend or remove any civil officer who has not a commission during good behaviour, and may suspend any militia

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militia officer for one month, and may also suspend or remove any regular officer in the land or sea service; and the governor may remove or suspend any militia officer in pursuance of the judgment of a court-martial.

49. That all civil officers of the appointment of the governor and council, who do not hold commissions during good behaviour, shall be appointed annually in the third week of November; but if any of them shall be re-appointed, they may continue to act without any new commission or qualification; and every officer, though not re-appointed, shall continue to act until the person who shall be appointed and commissioned in his stead shall be qualified.

50. That the governor, every member of the council, and every judge and justice, before they act as such, shall respectively take an oath, "That he will not, through favour, affection, or partiality, vote for any person to office, and that he will vote for such person as in his judgement and conscience he believes most fit and best qualified for the office, and that he has not made, nor will make, any promise or engagement to give his vote or interest in favour of any person."

51. That there be two registers of the land office, one upon the western, and one upon the eastern shore; that short extracts of the grants and certificates of the land on the western and eastern shores respectively be made in separate books, at the public expence, and deposited in the offices of the said registers in such manner as shall hereafter be provided by the general assembly.

52. That every chancellor, judge, register of wills, commissioner of the loan office, attorney general, sheriff, treasurer, naval officer, register of the land office, register of the chancery court, and every clerk of the common law courts, surveyor, and auditor of the public accounts, before he acts as such, shall take an oath "that he will not directly or indirectly receive any fee or reward for doing his office of but what is or shall be allowed by law, nor will directly or indirectly receive the profits or any part of the profits of any office held by any other person, and that he does not hold the same office in trust or for the benefit of any other person."

53. That if any governor, chancellor, judge, register of wills, attorney general, register of the land office, register of the chancery court, or any clerk of the common law courts, treasurer, naval officer, sheriff, surveyor, or auditor of public accounts, shall receive directly or indirectly, at any time, the profits or any part of the profits of any office held by any other person during his acting in the office to which he is appointed, his election, appointment, and commission, on conviction in a court of law, by oath of two credible witnesses, shall be void, and he shall suffer the punishment for wilful and corrupt perjury, or be banished this state

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state for ever, or disqualified for ever from holding any office or place of trust or profit, as the court may adjudge.

54. That if any person shall give any bribe, present, or reward, or any promise, or any security for the payment or delivery of any money, or any other thing, to obtain or procure a vote to be governor, senator, delegate to congress or assembly, member of the council, or judge, or to be appointed to any of the said offices, or to any office of profit or trust, now created or hereafter to be created in this state, the person giving, and the person receiving the same, on conviction in a court of law, shall be for ever disqualified to hold any office of trust or profit in this state.

55. That every person appointed to any office of profit or trust shall, before he enters on the execution thereof, take the following oath, to wit, "I, A. B. do swear, That I do not hold myself bound in allegiance to the king of Great-Britain, and that I will be faithful, and bear true allegiance to the state of Maryland," and shall also subscribe a declaration of his belief in the christian religion.

56. That there be a court of appeals, composed of persons of integrity and sound judgment in the law, whose judgment shall be final and conclusive in all cases of appeal, from the general court, court of chancery, and court of admiralty: That one person of integrity and sound judgment in the law, be appointed chancellor: That three persons of integrity and sound judgment in the law be appointed judges of the court now called the provincial court; and that the same court be hereafter called and known by the name of *The General Court*; which court shall sit on the western and eastern shores for transacting and determining the business of the respective shores, at such times and places as the future legislature of this state shall direct and appoint.

57. That the stile of all laws run thus, *Be it enacted, by the general assembly of Maryland*: That all public commissions and grants run thus, *The state of Maryland, &c.* and shall be signed by the governor, and attested by the chancellor with the seal of the state annexed, except military commissions, which shall not be attested by the chancellor, or have the seal of the state annexed: That all writs shall run in the same stile, and be tested, sealed and signed as usual: That all indictments shall conclude, *Against the peace, government, and dignity of the stat.*

58. That all penalties and forfeitures, heretofore going to the king or proprietary, shall go to the state, save only such as the general assembly may abolish or otherwise provide for.

59. That this form of government, and the declaration of rights, and no part thereof, shall be altered, changed, or abolished, unless a bill so to alter, change, or abolish the same, shall pass the general assembly, and be published at least three months before a new election, and shall be confirmed by the general assembly

after a new election of delegates, in the first session after such new election; provided that nothing in this form of government which relates to the eastern shore particularly, shall at any time hereafter be altered unless for the alteration and confirmation thereof at least two thirds of all the members of each branch of the general assembly shall concur.

60. That every bill passed by the general assembly, when engrossed, shall be presented by the speaker of the house of delegates, in the senate, to the governor for the time being, who shall sign the same, and thereto affix the great seal, in the presence of the members of both houses: every law shall be recorded in the general court office of the western shore, and in due time printed, published, and certified under the great seal, to the several county courts, in the same manner as hath been heretofore used in this state.

This form of government was assented to, and passed in convention of the delegates of the freemen of Maryland, begun and held at the city of Annapolis, the 14th of August, A. D. 1776.

By order of the Convention,

M. TUGHMAN, *President.*

V I R G I N I A.

The CONSTITUTION, or FORM of GOVERNMENT, agreed to and resolved upon by the Delegates, and Representatives of the several Counties and Corporations of Virginia, in a GENERAL CONVENTION held at Williamburgh, on the 6th of May, and continued by Adjournments to the 5th of July, 1776.

WE, the delegates and representatives of the good people of Virginia, do declare the future form of government of Virginia to be as followeth :

The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other ; nor shall any person exercise the powers of more than one of them at the same time, except that the justices of the county courts shall be eligible to either house of assembly.

The legislative shall be formed of two distinct branches, who, together, shall be a complete legislature. They shall meet once, or oftener, every year, and shall be called, *The General Assembly of Virginia*. One of these shall be called, *The House of Delegates*, and consist of two representatives to be chosen for each county, and for the district of West-Augusta, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law, and also of one delegate or representative to be chosen annually for the city of Williamburgh, and one for the borough of Norfolk, and a representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the legislature ; but when any city or borough shall so decrease, as that the number of persons having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in Virginia, such city or borough thenceforward shall cease to send a delegate or representative to the assembly.

The other shall be called *The Senate*, and consist of twenty-four members, of whom thirteen shall constitute a house to proceed on business, for whose election the different counties shall be divided into twenty-four districts, and each county of the respective

district.

district, at the time of the election of its delegates, shall vote for one senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age; and the sheriffs of each county, within five days at farthest after the last county election in the district, shall meet at some convenient place, and from the poll so taken in their respective counties, return as a senator the man who shall have the greatest number of votes in the whole district. To keep up this assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members elected by the first division shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election in the manner aforesaid. This rotation shall be applied to each division according to its number, and continued in due order annually.

The right of suffrage in the election of members for both houses shall remain as exercised at present, and each house shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for the supplying intermediate vacancies.

All laws shall originate in the house of delegates, to be approved of or rejected by the senate, or to be amended with consent of the house of delegates; except money-bills, which in no instance shall be altered by the senate, but wholly approved or rejected.

A governor, or chief magistrate shall be chosen annually, by joint ballot of both houses, to be taken in each house respectively, deposited in the conference room, the boxes examined jointly by a committee of each house, and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both houses in all cases) who shall not continue in that office longer than three years successively, nor be eligible until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary shall be settled on him during his continuance in office; and he shall, with the advice of a council of state, exercise the executive powers of government; according to the laws of this commonwealth; and shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom of England: But he shall, with the advice of the council of state, have the power of granting reprieves or pardons, except where the prosecution shall have been carried on by the house of delegates, or the law shall otherwise particularly direct; in which cases no reprieve or pardon shall be granted, but by resolve of the house of delegates.

Either house of the general assembly may adjourn themselves respectively. The governor shall not prorogue or adjourn the assembly during their sitting, nor dissolve them at any time; but he

he shall, if necessary, either by advice of the council of state, or on application of a majority of the house of delegates, call them before the time to which they shall stand prorogued or adjourned.

A privy council, or council of state, consisting of eight members, shall be chosen by joint ballot of both houses of assembly, either from their own members or the people at large, to assist in the administration of government. They shall annually choose, out of their own members, a president, who, in case of death, inability, or absence of the governor from the government, shall act as lieutenant-governor. Four members shall be sufficient to act, and their advice and proceedings shall be entered on record, and signed by the members present, (to any part whereof any member may enter his dissent) to be laid before the general assembly, when called for by them. This council may appoint their own clerk, who shall have a salary settled by law, and take an oath of secrecy in such matters as he shall be directed by the board to conceal. A sum of money appropriated to that purpose, shall be divided annually among the members, in proportion to their attendance; and they shall be incapable, during their continuance in office, of sitting in either house of assembly. Two members shall be removed by joint ballot of both houses of assembly, at the end of every three years, and be ineligible for the three next years. These vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections in the same manner.

The delegates for Virginia to the continental congress shall be chosen annually, or superseded in the mean time by joint ballot of both houses of assembly.

The present militia officers shall be continued, and vacancies supplied by appointment of the governor, with the advice of the privy council; on recommendations from the respective county courts; but the governor and council shall have a power of suspending any officer, and ordering a court martial on complaint of misbehaviour or inability, or to supply vacancies of officers happening when in actual service.

The governor may embody the militia, with the advice of the privy council; and, when embodied, shall alone have the direction of the militia under the laws of the country.

The two houses of assembly shall, by joint ballot, appoint judges of the supreme court of appeals, and general court, judges in chancery, judges of admiralty, secretary, and the attorney-general, to be commissioned by the governor, and continue in office during good behaviour. In case of death, incapacity, or resignation, the governor, with the advice of the privy-council, shall appoint persons to succeed in office, to be approved or displaced by both houses. These officers shall have fixed and adequate salaries, and, together with all others holding lucrative offices, and all ministers of the gospel of every denomination, be

incapable

incapable of being elected members of either house of assembly, or the privy-council.

The governor, with the advice of the privy council, shall appoint justices of the peace for the counties; and in case of vacancies, or a necessity of increasing the number hereafter, such appointments to be made upon the recommendation of the respective county courts. The present acting secretary in Virginia, and clerks of all the county courts, shall continue in office. In case of vacancies, either by death, incapacity, or resignation, a secretary shall be appointed, as before directed, and the clerks by the respective courts. The present and future clerks shall hold their offices during good behaviour, to be judged of and determined in the general court. The sheriffs and coroners shall be nominated by the respective courts, approved by the governor with the advice of the privy-council, and commissioned by the governor. The justices shall appoint constables; and all fees of the aforesaid officers be regulated by law.

The governor, when he is out of office, and others offending against the state, either by mal-administration, corruption, or other means, by which the safety of the state may be endangered, shall be impeachable by the house of delegates. Such impeachment to be prosecuted by the attorney-general, or such other person or persons as the house may appoint, in the general court, according to the laws of the land. If found guilty, he or they shall be either for ever disabled to hold any office under government, or be removed from such office *pro tempore*, or subjected to such pains or penalties as the law shall direct.

If all or any of the judges of the general court should, on good grounds (to be judged of by the house of delegates), be accused of any of the crimes or offences above mentioned, such house of delegates may in like manner impeach the judge or judges so accused, to be prosecuted in the court of appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

Commissions and grants shall run, *In the name of the commonwealth of Virginia*, and bear test by the governor, with the seal of the commonwealth annexed. Writs shall run in the same manner, and bear test by the clerks of the several courts. Indictments shall conclude, *Against the peace and dignity of the commonwealth*.

A treasurer shall be appointed annually, by joint ballot of both houses.

All escheats, penalties, and forfeitures, heretofore going to the king, shall go to the commonwealth, save only such as the legislature may abolish, or otherwise provide for.

The territories contained within the charters erecting the colonies of Maryland, Pennsylvania, North and South-Carolina, are

are hereby ceded, released, and for ever confirmed to the people of these colonies respectively, with all the rights of property, jurisdiction and government, and all other rights whatsoever, which might at any time heretofore have been claimed by Virginia, except the free navigation and use of the rivers Potomaque and Pokomoke, with the property of the Virginia shores and strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of Virginia shall in all other respects stand as fixed by the charter of king James I. in the year one thousand six hundred and nine, and by the public treaty of peace between the courts of Britain and France, in the year one thousand seven hundred and sixty-three; unless, by act of this legislature, one or more governments be established westward of the Allegheny mountains. And no purchases of lands shall be made of the Indian natives but on behalf of the public, by authority of the general assembly.

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NORTH-CAROLINA.

The CONSTITUTION, or FORM of GOVERNMENT,
*agreed to and resolved upon by the Representatives of the Freemen
of the State of North-Carolina, elected and chosen for that particular
Purpose, in CONGRESS assembled, at Halifax, Dec. 18, 1776.*

A DECLARATION of RIGHTS, &c.

1. **T**HAT all political power is vested in, and derived from, the people only.
2. That the people of this state ought to have the sole and exclusive right of regulating the internal government and police thereof.
3. That no man, or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.
4. That the legislative, executive, and supreme judicial powers of government ought to be for ever separate and distinct from each other.
5. That all powers of suspending laws, or the execution of laws by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.
6. That elections of members to serve as representatives in general assembly ought to be free.
7. That in all criminal prosecutions every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.
8. That no freeman shall be put to answer any criminal charge but by indictment, presentment, or impeachment.
9. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court as heretofore used.
10. That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.
11. That general warrants whereby an officer or messenger may be commanded to search suspected places without evidence of

of the fact committed, or to seize any person or persons not named whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

12. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

13. That every freeman restrained of his liberty, is intitled to a remedy, to enquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed.

14. That in all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

15. That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

16. That the people of this state ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their representatives in general assembly freely given.

17. That the people have a right to bear arms for the defence of the state; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by the civil power.

18. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

19. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience.

20. That for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

21. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

22. That no hereditary emoluments, privileges, or honours, ought to be granted or conferred in this state.

23. That perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.

24. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, wherefore no *ex post facto* law ought to be made.

25. The property of the soil in a free government being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of

the state should be ascertained with precision; and as the former temporary line between North and South Carolina was confirmed and extended by commissioners, appointed by the legislatures of the two states, agreeable to the order of the late king George II. in council, that line, and that only, should be esteemed the southern boundary of this state; that is to say, beginning on the sea side at a cedar stake, at or near the mouth of *Little River* (being the southern extremity of Brunswick county), and running from thence a north-west course through the boundary house, which stands in thirty three degrees fifty six minutes, to thirty five degrees north latitude, and from thence a west course, so far as is mentioned in the charter of king Charles II. to the late proprietors of Carolina. Therefore all the territory, seas, waters, and harbours, with their appurtenances, lying between the line above described, and the southern line of the state of Virginia, which begins on the sea shore, in thirty six degrees thirty minutes north latitude, and from thence runs west, agreeable to the said charter of king Charles, are the right and property of the people of this state, to be held by them in sovereignty; any partial line, without the consent of the legislature of this state, at any time thereafter directed or laid out in any wise notwithstanding. *Provided always*, That this declaration of right shall not prejudice any nation or nations of Indians from enjoying such hunting grounds as may have been, or hereafter shall be secured to them by any former or future legislature of this state. *And provided also*, That it shall not be construed so as to prevent the establishment of one or more governments westward of this state, by consent of the legislature. *And provided further*, That nothing herein contained shall affect the titles or possessions of individuals, holding or claiming under the laws heretofore in force, or grants heretofore made by the late king George II. or his predecessors, or the late lords proprietors, or any of them.

The CONSTITUTION, or FORM of GOVERNMENT, &c.

WHEREAS allegiance and protection are in their nature reciprocal, and the one should of right be refused when the other is withdrawn; and whereas George the Third, king of Great-Britain, and late sovereign of the British American colonies, hath not only withdrawn from them his protection, but by an act of the British legislature declared the inhabitants of these states out of the protection of the British crown, and all their property found upon the high seas liable to be seized and confiscated to the uses mentioned in the said act; and the said George the Third has also sent fleets and armies to prosecute a cruel war against them,

them, for the purpose of reducing the inhabitants of the said colonies to a state of abject slavery; in consequence whereof, all government under the said king within the said colonies hath ceased, and a total dissolution of government in many of them hath taken place: And whereas the continental congress, having considered the premises, and other previous violations of the rights of the good people of America, have therefore declared, that the thirteen united colonies are of right wholly absolved from all allegiance to the British crown, or any other foreign jurisdiction whatsoever; and that the said colonies now are, and for ever shall be, free and independent states: Wherefore, in our present state, in order to prevent anarchy and confusion, it becomes necessary that government should be established in this state: Therefore we, the representatives of the freemen of North-Carolina, chosen and assembled in congress, for the express purpose of framing a constitution, under the authority of the people, most conducive to their happiness and prosperity, do declare, that a government for this state shall be established in manner and form following, *to wit*:

1. That the legislative authority shall be vested in two distinct branches, both dependent on the people, *to wit*, a *Senate*, and *House of Commons*.

2. That the senate shall be composed of representatives annually chosen by ballot, one for each county in the state.

3. That the house of commons shall be composed of representatives annually chosen by ballot, two for each county, and one for each of the towns of Edentown, Newbern, Wilmington, Salisbury, Hillsborough, and Halifax.

4. That the senate and house of commons, assembled for the purpose of legislation, shall be denominated, *The General Assembly*.

5. That each member of the senate shall have usually resided in the county in which he is chosen, for one year immediately preceding his election, and for the same time shall have possessed, and continue to possess, in the county which he represents, not less than three hundred acres of land in fee.

6. That each member of the house of commons shall have usually resided in the county in which he is chosen, for one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the county which he represents, not less than one hundred acres of land in fee, or for the term of his own life.

7. That all freemen of the age of twenty-one years, who have been inhabitants of any one county within the state twelve months immediately preceding the day of any election, and possessed of a freehold within the same county of fifty acres of land for six months next before, and at the day of election, shall be entitled to vote for a member of the senate.

8. That all freemen of the age of twenty-one years, who have
been

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been inhabitants of any county within the state twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the house of commons, for the county in which he resides.

9. That all persons possessed of a freehold in any town in this state, having a right of representation, and also all freemen who have been inhabitants of any such town twelve months next before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the house of commons. Provided always, That this section shall not entitle any inhabitant of such town to vote for members of the house of commons for the county in which he may reside; nor any freeholder in such county who resides without or beyond the limits of such town, to vote for a member for said town.

10. That the senate and house of commons when met, shall each have power to choose a speaker, and other their officers; be judges of the qualifications and elections of their members; sit upon their own adjournments from day to day; and prepare bills to be passed into laws. The two houses shall direct writs of election for supplying intermediate vacancies, and shall also jointly, by ballot, adjourn themselves to any future day and place.

11. That all bills shall be read three times in each house before they pass into laws, and be signed by the speaker of both houses.

12. That every person who shall be chosen a member of the senate or house of commons, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the state, and all officers shall also take an oath of office.

13. That the general assembly shall, by joint ballot of both houses, appoint judges of the supreme courts of law and equity, judges of admiralty, and attorney-general, who shall be commissioned by the governor, and hold their offices during good behaviour.

14. That the senate and house of commons shall have power to appoint the generals and field officers of the militia, and all officers of the regular army of this state.

15. That the senate and house of commons, jointly, at their first meeting after each annual election, shall by ballot elect a governor for one year, who shall not be eligible to that office longer than three years in six successive years. That no person under thirty years of age, and who has not been a resident in this state above five years, and having in the state a freehold in lands and tenements above the value of one thousand pounds, shall be eligible as a governor.

16. That the senate and house of commons, jointly, at their first meeting after each annual election, shall by ballot elect seven persons to be a council of state for one year, who shall advise the governor

governor in the execution of his office, and that four members shall be a quorum; their advice and proceedings shall be entered in a journal to be kept for that purpose only, and signed by the members present, to any part of which any member present may enter his dissent. And such journal shall be laid before the general assembly, when called for by them.

17. That there shall be a seal of this state, which shall be kept by the governor, and used by him as occasion may require; and shall be called, *The Great Seal of the State of North-Carolina*, and be affixed to all grants and commissions.

18. The governor for the time being shall be captain-general and commander in chief of the militia; and in the recess of the general assembly shall have power, by and with the advice of the council of state, to embody the militia for the public safety.

19. That the governor for the time being shall have power to draw for, and apply such sums of money as shall be voted by the general assembly for the contingencies of government, and be accountable to them for the same. He also may, by and with the advice of the council of state, lay embargoes, or prohibit the exportation of any commodity, for any term not exceeding thirty days at any one time, in the recess of the general assembly; and shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the general assembly, or the law shall otherwise direct; in which case he may, in the recess, grant a reprieve until the next sitting of the general assembly; and may exercise all the other executive powers of government, limited and restrained as by this constitution is mentioned, and according to the laws of the state. And on his death, inability, or absence from the state, the speaker of the senate for the time being; and in case of his death, inability, or absence from the state, the speaker of the house of commons shall exercise the powers of government, after such death, or during such absence or inability, of the governor, or speaker of the senate, or until a new nomination is made by the general assembly.

20. That in every case where any officer, the right of whose appointment is by this constitution vested in the general assembly, shall during their recess die, or his office by other means become vacant, the governor shall have power, with the advice of the council of state, to fill up such vacancy by granting a temporary commission, which shall expire at the end of the next session of the general assembly.

21. That the governor, judges of the supreme court of law and equity, judges of admiralty, and attorney-general, shall have adequate salaries, during their continuance in office.

22. That the general assembly shall, by joint ballot of both houses, annually appoint a treasurer or treasurers for this state.

23. That the governor, and other officers offending against the state,

state, by violating any part of this constitution, mal-administration, or corruption, may be prosecuted on the impeachment of the general assembly, or presentment of the grand jury of any court of supreme jurisdiction in this state.

24. That the general assembly shall, by joint ballot of both houses, triennially appoint a secretary for this state.

25. That no persons, who heretofore have been, or hereafter may be receivers of public monies, shall have a seat in either house of general assembly, or be eligible to any office in this state, until such person shall have fully accounted for, and paid into the treasury, all sums for which they may be accountable and liable.

26. That no treasurer shall have a seat either in senate, house of commons, or council of state, during his continuance in that office, or before he shall have finally settled his accounts with the public, for all the monies which may be in his hands, at the expiration of his office, belonging to the state, and hath paid the same into the hands of the succeeding treasurer.

27. That no officer in the regular army or navy, in the service and pay of the united states, of this or any other state, nor any contractor or agent for supplying such army or navy with cloathing or provisions, shall have a seat either in the senate, house of commons, or council of state, or be eligible thereto; and any member of the senate, house of commons, or council of state, being appointed to, and accepting of such office, shall thereby vacate his seat.

28. That no member of the council of state shall have a seat either in the senate or house of commons.

29. That no judge of the supreme court of law or equity, or judge of admiralty, shall have a seat in the senate, house of commons, or council of state.

30. That no secretary of this state, attorney-general, or clerk of any court of record, shall have a seat in the senate, house of commons, or council of state.

31. That no clergyman or preacher of the gospel, of any denomination, shall be capable of being a member of either the senate, house of commons, or council of state, while he continues in the exercise of the pastoral function.

32. That no person who shall deny the being of God, or the truth of the Protestant religion, or the divine authority either of the Old or New Testament, or who shall hold religious principles incompatible with the freedom and safety of the state, shall be capable of holding any office, or place of trust or profit in the civil department within this state.

33. That the justices of the peace within their respective counties in this state, shall in future be recommended to the governor for the time being, by the representatives in general assembly, and the governor shall commission them accordingly; and the justices,
when

when so commissioned, shall hold their offices during good behaviour, and shall not be removed from office by the general assembly, unless for misbehaviour, absence, or inability.

34. That there shall be no establishment of any one religious church or denomination in this state in preference to any other, neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his own faith or judgment, nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship. *Provided*, That nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses from legal trial and punishment.

35. That no person in the state shall hold more than one lucrative office at any one time. *Provided*, That no appointment in the militia, or the office of a justice of the peace, shall be considered as a lucrative office.

36. That all commissions and grants shall run in the name of the state of North-Carolina, and bear test, and be signed by the governor. All writs shall run in the same manner, and bear test, and be signed by the clerks of the respective courts. Indictments shall conclude, *Against the peace and dignity of the state*.

37. That the delegates for this state to the continental congress, while necessary, shall be chosen annually by the general assembly, by ballot, but may be superseded in the mean time in the same manner, and no person shall be elected to serve in that capacity for more than three years successively.

38. That there shall be a sheriff, coroner, or coroners, and constables, in each county within this state.

39. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great.

40. That every foreigner who comes to settle in this state, having first taken an oath of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land, or other real estate; and after one year's residence, shall be deemed a free citizen.

41. That a school or schools shall be established by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged and promoted in one or more universities.

42. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the general assembly.

43. That the future legislature of this state shall regulate entails in such a manner as to prevent perpetuities.

44. That the declaration of rights is hereby declared to be part of the constitution of this state, and ought never to be violated, on any pretence whatsoever.

45. That any member of either house of general assembly shall have liberty to dissent from, and protest against, any act or resolve which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

46. That neither house of the general assembly shall proceed upon public business, unless a majority of all the members of such house are actually present; and that upon a motion made and seconded, the yeas and nays upon any question shall be taken and entered on the journals; and that the journals of the proceedings of both houses of the general assembly shall be printed, and made public, immediately after their adjournment.

This constitution is not intended to preclude the present congress from making a temporary provision for the well ordering of this state, until the general assembly shall establish government agreeable to the mode herein before described.

RICHARD CASWELL, PRESIDENT.

December the eighteenth, one thousand seven hundred and seventy-six, read the third time, and ratified in open congress.

By Order,

JAMES GREEN, Jun. *Secretary.*

S O U T H - C A R O L I N A .

*An ACT for establishing the CONSTITUTION of the
State of South-Carolina, passed the 19th day of March, 1778.*

WHEREAS the constitution or form of government agreed to and resolved upon by the freemen of this country, met in congress the 26th day of March, 1776, was temporary only, and suited to the situation of their public affairs at that period, looking forward to an accommodation with Great-Britain, an event then desired: And whereas the united colonies of America have been since constituted independent states, and the political connexion heretofore subsisting between them and Great-Britain entirely dissolved, by the declaration of the honourable the continental congress, dated the 4th day of July 1776, for the many great and weighty reasons therein particularly set forth; it therefore becomes absolutely necessary to frame a constitution suitable to that great event: Be it therefore constituted and enacted, by his excellency Rawlins Lowndes, Esq. president and commander in chief in and over the state of South-Carolina, by the honourable the legislative council and general assembly, and by the authority of the same, That the following articles agreed upon by the freemen of this state, now met in general assembly, be deemed and held the constitution and form of government of the said state, unless altered by the legislative authority thereof: which constitution or form of government shall immediately take place and be of force from the passing of this act, excepting such parts as are hereafter mentioned and specified.

1. That the stile of this country be hereafter, *The State of South-Carolina.*

2. That the legislative authority be vested in a general assembly, to consist of two distinct bodies, a senate and house of representatives; but, that the legislature of this state, as established by the constitution or form of government, passed the 26th of March 1776, shall continue and be in full force, until the 29th day of November next ensuing.

3. That as soon as may be after the first meeting of the senate and house of representatives, and at every first meeting of the senate and house of representatives thereafter, to be elected by virtue of

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this constitution, they shall, jointly, in the house of representatives, choose by ballot, from among themselves or from the people at large, a governor and commander in chief, a lieutenant-governor, both to continue for two years, and a privy-council, all of the Protestant religion; and till such choice shall be made, the former president, or governor and commander in chief, and vice-president, or lieutenant-governor, as the case may be, and privy-council, shall continue to act as such.

4. That a member of the senate or house of representatives, being chosen and acting as governor and commander in chief, or lieutenant-governor, shall vacate his seat, and another person shall be elected in his room.

5. That every person who shall be elected governor and commander in chief of the state, or lieutenant-governor, or a member of the privy-council, shall be qualified as followeth, that is to say, The governor and lieutenant-governor shall have been residents in this state for ten years, and the members of the privy-council five years, preceding their said election, and shall have in this state a settled plantation or freehold, in their and each of their own right, of the value of at least ten thousand pounds currency, clear of debt; and on being elected, they shall respectively take an oath of qualification in the house of representatives.

6. That no future governor and commander in chief who shall serve for two years, shall be eligible to serve in the said office after the expiration of the said term, until the full end and term of four years.

7. That no person in this state shall hold the office of governor thereof, or lieutenant-governor, and any other office or commission, civil or military, (except in the militia) either in this or any other state; or under the authority of the continental congress, at one and the same time.

8. That in case of the impeachment of the governor and commander in chief, or his removal from office, death, resignation, or absence from the state, the lieutenant-governor shall succeed to his office, and the privy-council shall choose, out of their own body, a lieutenant-governor of the state. And in case of the impeachment of the lieutenant-governor, or his removal from office, death, resignation, or absence from the state, one of the privy-council, to be chosen by themselves, shall succeed to his office, until a nomination to those offices respectively, by the senate and house of representatives, for the remainder of the time for which the officer so impeached, removed from office, dying, resigning, or being absent, was appointed.

9. That the privy-council shall consist of the lieutenant governor for the time being, and eight other members, five of whom shall be a quorum; to be chosen as before directed, four to serve for two years, and four for one year; and at the expiration of one year

year, four others shall be chosen in the room of the last four to serve for two years, and all future members of the privy-council shall thence-forward be elected to serve for two years, whereby there will be a new election every year for half of the privy council, and a constant rotation established; but no member of the privy council, who shall serve for two years, shall be eligible to serve therein after the expiration of the said term, until the full end and term of four years: Provided always, that no officer of the army or navy, in the service of the continent or this state, nor judge of any of the courts of law shall be eligible; nor shall the father, son or brother of the governor for the time being, be elected in the privy-council during his administration. A member of the senate or house of representatives, being chosen of the privy-council, shall not thereby lose his seat in the senate or house of representatives, unless he be elected lieutenant governor, in which case he shall, and another person shall be chosen in his stead. The privy council is to advise the governor and commander in chief, when required, but he shall not be bound to consult them unless directed by law. If a member of the privy-council shall die or depart the state, during the recess of the general assembly, the privy-council shall choose another to act in his room, until a nomination by the senate and house of representatives shall take place. The clerk of the privy-council shall keep a regular journal of all their proceedings, in which shall be entered the yeas and nays on every question, and the opinion, with the reasons at large, of any member who desires it; which journal shall be laid before the legislature, when required by either house.

10. That in case of the absence from the seat of government, or sickness of the governor and the lieutenant-governor, any one of the privy-council may be empowered by the governor, under his hand and seal, to act in his room; but such appointment shall not vacate his seat in the senate, house of representatives, or privy-council.

11. That the executive authority be vested in the governor and commander in chief, in manner herein mentioned.

12. That each parish and district throughout this state, shall on the last Monday in November next, and the day following, and on the same days of every second year thereafter, elect, by ballot, one member of the senate; except the district of St. Philip and St. Michael's parishes, Charles-town, which shall elect two members, and except also the district between Broad and Saludy rivers, in three divisions, viz. the lower district, little river district, and upper or Spartan district, each of which said divisions shall elect one member; and except the parishes of St. Matthew and Orange, which shall elect one member; and also except the parishes of Prince-George and All Saints, which shall elect one member, And the election of senators for such parishes respectively, shall,

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shall, until otherwise altered by the legislature, be at the parish of Prince George, for the said parish and the parish of All Saints, and at the parish of St. Matthew for that parish and the parish of Orange; to meet on the first Monday in January then next, at the seat of government, unless the casualties of war or contagious disorders should render it unsafe to meet there; in which case the governor and commander in chief for the time being, may, by proclamation, with the advice and consent of the privy-council, appoint a more secure and convenient place of meeting; and to continue for two years, from the said last Monday in November; and that no person shall be eligible to a seat in the said senate, unless he be of the Protestant religion, and hath attained the age of thirty years, and hath been a resident in this state at least five years. Not less than thirteen members shall be a quorum to do business, but the president or any three members may adjourn from day to day. No person who resides in the parish or district for which he is elected, shall take his seat in the senate, unless he possesses a settled estate and freehold, in his own right, in the said parish or district, of the value of two thousand pounds currency at least, clear of debt; and no non-resident shall be eligible to a seat in the said senate, unless he is owner of a settled estate and freehold, in his own right, in the parish or district where he is elected, of the value of seven thousand pounds currency at least, also clear of debt.

13. That on the last Monday in November next, and the day following, and on the same days of every second year thereafter, members of the house of representatives shall be chosen, to meet on the first Monday in January then next, at the seat of government, unless the casualties of war or contagious disorders should render it unsafe to meet there, in which case the governor and commander in chief for the time being may by proclamation, with the advice and consent of the privy council, appoint a more secure and convenient place of meeting; and to continue for two years from the said last Monday in November. Each parish and district within this state, shall send members to the general assembly in the following proportions, that is to say,

The parish of St. Philip and St. Michael, Charlestown, thirty members.

The parish of Christ-Church, six members.

The parish of St. John, in Berkley county, six members.

The parish of St. Andrew, six members.

The parish of St. George, Dorchester, six members.

The parish of St. James, Goose-creek, six members.

The parish of St. Thomas and St. Dennis, six members.

The parish of St. Paul, six members.

The parish of St. Bartholomew, six members.

The parish of St. Helena, six members.

- The parish of St. James, Santee, six members.
- The parish of Prince George, Winyah, four members.
- The parish of All Saints, two members.
- The parish of Prince Frederick, six members.
- The parish of St. John, in Colleton county, six members.
- The parish of St. Peter, six members.
- The parish of Prince William, six members.
- The parish of St. Stephen, six members.
- The district to the eastward of Wateree river, ten members.
- The district of Ninety-Six, ten members.
- The district of Saxe-Gotha, six members.
- The district between Broad and Saludy rivers, in three divisions,

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- The Lower district, four members.
- The Little River district, four members.
- The Upper or Spartan district, four members.
- The district between Broad and Catawba rivers, ten members.
- The district called the New Acquisition, ten members.
- The parish of St. Matthew, three members.
- The parish of Orange, three members.
- The parish of St. David, six members.
- The district between Savannah river, and the north fork of Edisto, six members.

And the election of the said members shall be conducted, as near as may be, agreeable to the directions of the present or any future election act or acts. And where there are no churches or churchwardens in a district or parish, the house of representatives, at some convenient time before their expiration, shall appoint places of election, and persons to receive votes and make returns. The qualification of electors shall be, that every free white man, and no other person, who acknowledges the being of a God, and believes in a future state of rewards and punishments, and who has attained to the age of one and twenty years, and hath been a resident and an inhabitant in this state for the space of one whole year, before the day appointed for the election he offers to give his vote at, and hath a freehold at least of fifty acres of land, or a town lot, and hath been legally seized and possessed of the same, at least six months previous to such election, or hath paid a tax the preceding year, or was taxable the present year, at least six months previous to the said election, in a sum equal to the tax on fifty acres of land, to the support of this government, shall be deemed a person qualified to vote for, and shall be capable of electing a representative or representatives, to serve as a member or members in the senate, and house of representatives, for the parish or district where he actually is a resident, or in any other parish or district, in this state, where he hath the like freehold. Electors shall take an oath or affirmation of qualification, if required by the returning officer.

officer. No person shall be eligible to sit in the house of representatives, unless he be of the Protestant religion, and hath been a resident in this state for three years, previous to his election. The qualification of the elected, if residents in the parish or district for which they shall be returned, shall be the same as mentioned in the election act, and construed to mean clear of debt. But no non-resident shall be eligible to a seat in the house of representatives, unless he is owner of a settled estate and freehold, in his own right, of the value of three thousand and five hundred pounds currency at least, clear of debt, in the parish or district for which he is elected.

14. That if any parish or district neglects or refuses to elect members; or if the members chosen do not meet in general assembly; those who do meet shall have the powers of the general assembly. Not less than sixty-nine members shall make a house of representatives to do business; but the speaker, or any seven members, may adjourn from day to day.

15. That at the expiration of seven years after the passing of this constitution, and at the end of every fourteen years thereafter, the representation of the whole state shall be proportioned in the most equal and just manner, according to the particular and comparative strength, and taxable property, of the different parts of the same; regard being always had to the number of white inhabitants, and such taxable property.

16. That all money-bills for the support of government, shall originate in the house of representatives, and shall not be altered or amended by the senate, but may be rejected by them: And that no money be drawn out of the public treasury, but by the legislative authority of the state. All other bills and ordinances may take rise in the senate or house of representatives, and be altered, amended, or rejected by either. Acts and ordinances having passed the general assembly, shall have the great seal affixed to them, by a joint committee of both houses, who shall wait upon the governor to receive and return the seal; and shall then be signed by the president of the senate, and speaker of the house of representatives, in the senate house, and shall thenceforth have the force and validity of a law, and be lodged in the secretary's office. And the senate and house of representatives respectively, shall enjoy all other privileges which have at any time been claimed, or exercised by the commons house of assembly.

17. That neither the senate nor house of representatives shall have power to adjourn themselves, for any longer time than three days, without the mutual consent of both. The governor and commander in chief shall have no power to adjourn, prorogue, or dissolve them, but may, if necessary, by and with the advice and consent of the privy-council convene them, before the time to which they shall stand adjourned. And where a bill hath been

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rejected by either house, it shall not be brought in again that session, without leave of the house, and a notice of six days being previously given.

18. That the senate and house of representatives shall each chuse their respective officers by ballot, without controul. And that, during a recess, the president of the senate, and speaker of the house of representatives, shall issue writs for filling up vacancies, occasioned by death in their respective houses, giving at least three weeks, and not more than thirty-five days previous notice, of the time appointed for the election.

19. That if any parish or district shall neglect to elect a member or members, on the day of election; or in case any person chosen a member of either house, shall refuse to qualify and take his seat as such, or die, or depart the state; the senate or house of representatives, as the case may be, shall appoint proper days for electing a member or members, in such cases respectively.

20. That if any member of the senate or house of representatives, shall accept any place of emolument, or any commission (except in the militia, or commission of the peace), and except as is excepted in the tenth article, he shall vacate his seat, and there shall thereupon be a new election; but he shall not be disqualified from serving, upon being re-elected, unless he is appointed secretary of the state, a commissioner of the treasury, an officer of the customs, register of mesne conveyances, a clerk of either of the courts of justice, sheriff, powder-receiver, clerk of the senate, house of representatives, or privy council, surveyor-general, or commissary of military stores; which officers are hereby declared disqualified from being members either of the senate or house of representatives.

21. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their function; therefore, no minister of the gospel, or public preacher, of any religious persuasion, while he continues in the exercise of his pastoral function, and for two years after, shall be eligible either as governor, lieutenant-governor, a member of the senate, house of representatives, or privy council in this state.

22. That the delegates to represent this state in the congress of the united states, be chosen annually, by the senate and house of representatives, jointly by ballot, in the house of representatives. And nothing contained in this constitution, shall be construed to extend to vacate the seat of any member, who is or may be a delegate from this state to congress, as such.

23. That the form of impeaching all officers of the state, for mal and corrupt conduct in their respective offices, not amenable to any other jurisdiction, be vested in the house of representatives: But, that it shall always be necessary, that two-third parts of the members present do consent to, and agree in,
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such

such impeachment. That the senators and such of the judges of this state, as are not members of the house of representatives, be a court for the trial of impeachments, under such regulations as the legislature shall establish: And that, previous to the trial of every impeachment, the members of the said court shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. And no judgment of the said court, except judgment of acquittal, shall be valid, unless it shall be assented to by two-third parts of the members then present. And on every trial, as well on impeachments as others, the party accused shall be allowed counsel.

24. That the lieutenant-governor of the state, and a majority of the privy-council, for the time being, shall, until otherwise altered by the legislature, exercise the powers of a court of chancery. And there shall be ordinaries appointed in the several districts in this state, to be chosen by the senate and house of representatives jointly, by ballot, in the house of representatives, who shall, within their respective districts, exercise the powers heretofore exercised by the ordinary: And until such appointment is made, the present ordinary, in Charlestown, shall continue to exercise that office as heretofore.

25. That the jurisdiction of the court of admiralty be confined to maritime causes.

26. That justices of the peace shall be nominated by the senate and house of representatives, jointly, and commissioned by the governor and commander in chief, during pleasure. They shall be intitled to receive the fees heretofore established by law; and not acting in the magistracy, they shall not be intitled to the privileges allowed to them by law.

27. That all other judicial officers shall be chosen by ballot, jointly, by the senate and house of representatives, and, except the judges of the court of chancery, commissioned by the governor and commander in chief during good behaviour; but shall be removed on address of the senate and house of representatives.

28. That the sheriffs, qualified as by law directed, shall be chosen in like manner, by the senate and house of representatives, when the governor, lieutenant governor, and privy council are chosen, and commissioned by the governor and commander in chief for two years, and shall give security, as required by law, before they enter on the execution of their office. No sheriff who shall have served for two years, shall be eligible to serve in the said office, after the expiration of the said term, until the full end and term of four years, but shall continue in office until such choice be made: Nor shall any person be eligible as sheriff, in any district, unless he shall have resided therein for two years, previous to the election.

29. That two commissioners of the treasury, the secretary of the

the state, the registers of mesne conveyances in each district, attorney general, surveyor general, powder-receiver, collectors and comptrollers of the customs, and waiters, be chosen in like manner, by the senate, and house of representatives, jointly, by ballot, in the house of representatives, and commissioned by the governor and commander in chief, for two years. That none of the said officers respectively, who shall have served for four years, shall be eligible to serve in the said offices, after the expiration of the said term, until the full end and term of four years, but shall continue in office until a new choice be made: Provided, that nothing herein contained, shall extend to the several persons appointed to the above offices respectively, under the late constitution. And that the present, and all future commissioners of the treasury, and powder receivers, shall each give bond, with approved security, agreeable to law.

30. That all the officers in the army and navy of this state, of and above the rank of captain, shall be chosen by the senate and house of representatives, jointly, by ballot, in the house of representatives, and commissioned by the governor and commander in chief; and that all other officers in the army and navy of this state, shall be commissioned by the governor and commander in chief.

31. That in case of vacancy, in any of the offices above directed to be filled by the senate and house of representatives, the governor and commander in chief, with the advice and consent of the privy council, may appoint others in their stead, until there shall be an election by the senate and house of representatives to fill those vacancies respectively.

32. That the governor and commander in chief, with the advice and consent of the privy council, may appoint, during pleasure, until otherwise directed by law, all other necessary officers, except such as are now by law directed to be otherwise chosen.

33. That the governor and commander in chief shall have no power to commence war, or conclude peace, or enter into any final treaty, without the consent of the senate and house of representatives.

34. That the resolutions of the late congresses of this state, and all laws now of force here (and not hereby altered), shall so continue, until altered or repealed by the legislature of this state, unless where they are temporary, in which case they shall expire, at the times respectively limited for their duration.

35. That the governor and commander in chief for the time being, by and with the advice and consent of the privy council, may lay embargoes, or prohibit the exportation of any commodity, for any time, not exceeding thirty days, in the recess of the general assembly.

36. That all persons who shall be chosen and appointed to any

office, or to any place of trust, civil or military, before entering upon the execution of office, shall take the following oath :

“ I, A. B. do acknowledge the state of South-Carolina to be a free, independent, and sovereign state, and that the people thereof owe no allegiance or obedience to George the Third, king of Great Britain : And I do renounce, refuse, and abjure, any allegiance or obedience to him : And I do swear or affirm (as the case may be) that I will, to the utmost of my power, support, maintain and defend the said state, against the said king George the Third, and his heirs and successors, and his or their abettors, assistants, and adherents, and will serve the said state in the office of _____ with fidelity and honour, and according to the best of my skill and understanding. So help me God.”

37. That adequate yearly salaries be allowed to the public officers of this state, and be fixed by law.

38. That all persons and religious societies, who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated. The christian Protestant religion shall be deemed, and is hereby constituted and declared to be the established religion of this state. That all denominations of christian Protestants in this state, demeaning themselves peaceably and faithfully, shall enjoy equal religious and civil privileges. To accomplish this desirable purpose, without injury to the religious property of those societies of christians, which are by law already incorporated, for the purpose of religious worship; and to put it fully into the power of every other society of christian Protestants, either already formed, or hereafter to be formed, to obtain the like incorporation, it is hereby constituted, appointed, and declared, That the respective societies of the church of England, that are already formed in this state, for the purposes of religious worship, shall still continue incorporate, and hold the religious property now in their possession. And that, whenever fifteen or more male persons, not under twenty-one years of age, professing the christian Protestant religion, and agreeing to unite themselves in a society, for the purposes of religious worship, they shall, (on complying with the terms hereinafter mentioned) be, and be constituted, a church, and be esteemed and regarded in law, as of the established religion of the state, and on a petition to the legislature, shall be intitled to be incorporated, and to enjoy equal privileges. That every society of christians, so formed, shall give themselves a name or denomination, by which they shall be called and known in law; and all that associate with them for the purposes of worship, shall be esteemed as belonging to the society so called: But that, previous to the establishment and incorporation of the respective societies of every denomination as aforesaid, and in order to intitle them thereto, each society so petitioning, shall have agreed to, and subscribed,

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subscribed, in a book, the following five articles, without which, no agreement or union of men, upon pretence of religion, shall intitle them to be incorporated, and esteemed as a church of the established religion of this state :

First, That there is one eternal God, and a future state of rewards and punishments.

Second, That God is publicly to be worshipped.

Third, That the christian religion is the true religion.

Fourth, That the holy Scriptures of the Old and New Testament are of divine inspiration, and are the rule of faith and practice.

Fifth, That it is lawful, and the duty of every man, being thereunto called by those that govern, to bear witness to truth.

That every inhabitant of this state, when called to make an appeal to God, as a witness to truth, shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience. And, that the people of this state may for ever enjoy the right of electing their own pastors or clergy ; and, at the same time, that the state may have sufficient security for the due discharge of the pastoral office, by those who shall be admitted to be clergymen, no person shall officiate as minister of any established church, who shall not have been chosen by a majority of the society to which he shall minister, or by persons appointed by the said majority to choose and procure a minister for them, nor until the minister so chosen and appointed, shall have made and subscribed the following declaration, over and above the aforesaid five articles, viz.

“ That he is determined, by God’s grace, out of the holy scriptures, to instruct the people committed to his charge, and to teach nothing (as required of necessity to eternal salvation) but that which he shall be persuaded may be concluded and proved from the scripture ; that he will use both public and private admonitions, as well to the sick as to the whole, within his cure, as need shall require, and occasion shall be given ; and that he will be diligent in prayers, and in reading of the holy Scriptures, and in such studies as help to the knowledge of the same ; that he will be diligent to frame and fashion his own self and his family according to the doctrine of Christ, and to make both himself and them, as much as in him lieth, wholesome examples and patterns to the flock of Christ ; that he will maintain and set forwards, as much as he can, quietness, peace, and love, among all people, and especially among those that are or shall be committed to his charge.”

No person shall disturb or molest any religious assembly, nor shall use any reproachful, reviling, or abusive language, against any church ; that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them

them in quarrels and animosities, to the hatred of the professors, and that profession which otherwise they might be brought to assent to. No person whatsoever shall speak any thing, in their religious assembly, irreverently or seditiously of the government of this state. No person shall, by law, be obliged to pay towards the maintenance and support of a religious worship that he does not freely join in, or has not voluntarily engaged to support: But the churches, chapels, parsonages, glebes, and all other property, now belonging to any societies of the church of England, or any other religious societies, shall remain, and be secured to them for ever. The poor shall be supported, and elections managed, in the accustomed manner, until laws shall be provided, to adjust those matters in the most equitable way.

39. That the whole state shall, as soon as proper laws can be passed for those purposes, be divided into districts and counties, and county courts established.

40. That the penal laws, as heretofore used, shall be reformed, and punishments made, in some cases, less sanguinary, and, in general, more proportionate to the crime.

41. That no freeman of this state be taken, or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled; or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land.

42. That the military be subordinate to the civil power of the state.

43. That the liberty of the press be inviolably preserved.

44. That no part of this constitution shall be altered without a notice of ninety days being previously given; nor shall any part of the same be changed without the consent of a majority of the members of the senate and house of representatives.

45. That the senate and house of representatives shall not proceed to the election of a governor or lieutenant-governor, until there be a majority of both houses present.

In the Council-Chamber, the 19th Day of March, 1778.

Assented to,

RAWLINS LOWNDES.

HUGH RUTLEDGE, *Speaker*
of the *Legislative Council.*

THOMAS BEE, *Speaker*
of the *General Assembly.*

In the GENERAL ASSEMBLY, the 19th Day of March, 1778.

Published by order of the House,

PETER TIMOTHY, C. G. A.

G E O R G I A

The CONSTITUTION of the State of Georgia, unanimously agreed to, in CONVENTION, the 5th of February, 1777.

WHEREAS the conduct of the legislature of Great-Britain for many years past, has been so oppressive on the people of America, that of late years, they have plainly declared, and asserted a right to raise taxes upon the people of America, and to make laws to bind them in all cases whatsoever, without their consent; which conduct being repugnant to the common rights of mankind, hath obliged the Americans, as freemen, to oppose such oppressive measures, and to assert the rights and privileges they are intitled to, by the laws of nature and reason; and accordingly it hath been done by the general consent of all the people of the states of New-Hampshire, Massachusetts-Bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, the counties of Newcastle, Kent, and Suffex on Delaware, Maryland, Virginia, North-Carolina, South-Carolina; and Georgia, given by their representatives met together in general congress in the city of Philadelphia.

And whereas it hath been recommended by the said Congress on the fifteenth of May last, to the respective assemblies and conventions of the united states, where no government, sufficient to the exigencies of their affairs, hath been hitherto established; to adopt such government, as may, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.

And whereas the independence of the united states of America has been also declared, on the fourth day of July, one thousand seven hundred and seventy-six, by the said honourable congress, and all political connection between them and the crown of Great-Britain is in consequence thereof dissolved.

We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare, and it is hereby ordained and declared, that the following rules and regulations be adopted for the future government of this state.

1. The

1. The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

2. The legislature of this state shall be composed of the representatives of the people, as is herein after pointed out: And the representatives shall be elected yearly, and every year, on the first Tuesday in December; and the representatives so elected, shall meet the first Tuesday in January following, at Savannah, or any other place or places, where the house of assembly for the time being shall direct.

On the first day of the meeting of the representatives so chosen, they shall proceed to the choice of a governor, who shall be styled, *Honourable*; and of an executive council, by ballot out of their own body; *viz.* two from each county, except those counties which are not yet entitled to send ten members. One of each county shall always attend where the governor resides, by monthly rotation, unless the members of each county agree for a longer or shorter period; this is not intended to exclude either member attending: The remaining number of representatives shall be called *The House of Assembly*; and the majority of the members of the said house shall have power to proceed on business.

3. It shall be an unalterable rule, that the house of assembly shall expire, and be at an end yearly and every year, on the day preceding the day of election, mentioned in the foregoing rule.

4. The representation shall be divided in the following manner: Ten members for each county, as is herein after directed, excepting the county of Liberty, which contains three parishes, and that shall be allowed fourteen.

The ceded lands north of Ogeechee shall be one county, and known by the name of Wilkes.

The parish of St. Paul shall be another county, and known by the name of Richmond.

The parish of St. George shall be another county, and known by the name of Burke.

The parish of St. Matthew, and the upper part of St. Philip, above Canouchie, shall be another county, and known by the name of Effingham.

The parish of Christ-Church, and the lower part of St. Philip, below Canouchie, shall be another county, and known by the name of Chatham.

The parishes of St. John, St. Andrew, and St. James, shall be another county, and known by the name of Liberty.

The parishes of St. David and St. Patrick shall be another county, and known by the name of Glyn.

The parishes of St. Thomas and St. Mary shall be another county, and known by the name of Camden.

The port and town of Savannah shall be allowed four members to represent their trade.

The

The port and town of Sunbury shall be allowed two members to represent their trade.

5. The two counties of Glyn and Camden shall have one representative each, and also they, and all other counties that may hereafter be laid out by the house of assembly, shall be under the following regulations, *viz.* at their first institution, each county shall have one member, provided the inhabitants of said county shall have ten electors; and if thirty, they shall have two; if forty, three; if sixty, four; if eighty, six; if an hundred and upwards, ten; at which time two executive councillors shall be chosen from them, as is directed for the other counties.

6. The representatives shall be chosen out of the residents in each county, who shall have resided, at least, twelve months in this state, and three months in the county where they shall be elected; except the freeholders of the counties of Glyn and Camden, who are in a state of alarm, and who shall have the liberty of choosing one member each, as specified in the articles of this constitution, in any other county, until they have residents sufficient to qualify them for more: And they shall be of the Protestant religion, and of the age of twenty-one years, and shall be possessed in their own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

7. The house of assembly shall have power to make such laws and regulations, as may be conducive to the good order and well being of the state; provided such laws and regulations be not repugnant to the true intent and meaning of any rule or regulation contained in this constitution.

The house of assembly shall also have power to repeal all laws, and ordinances, they find injurious to the people: And the house shall chuse its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election, for supplying intermediate vacancies; and shall have power of adjournment to any time, or times within the year.

8. All laws and ordinances shall be three times read, and each reading shall be on different and separate days, except in cases of great necessity and danger; and all laws and ordinances shall be sent to the executive council, after the second reading, for their perusal and advice.

9. All male white inhabitants, of the age of twenty-one years, and possessed, in his own right, of ten pounds value, and liable to pay tax in this state, or being of any mechanic trade, and shall have been a resident six months in this state, shall have a right to vote at all elections for representatives, or any other officers, herein agreed to be chosen by the people at large; and every person having a right to vote at any election, shall vote by ballot personally.

10. No officer whatever shall serve any process, or give any
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other

other hindrance to any person intitled to vote, either in going to the place of election, or during the time of the said election, or on their returning home from such election; nor shall any military officer, or soldier, appear at any election in a military character, to the intent that all elections may be free and open.

11. No person shall be entitled to more than one vote, which shall be given in the county where such person resides, except as before excepted; nor shall any person, who holds any title of nobility, be entitled to a vote, or be capable of serving as a representative, or hold any post of honour, profit or trust, in this state, whilst such person claims his title of nobility; but if the person shall give up such distinction, in the manner as may be directed by any future legislature, then, and in such case, he shall be entitled to a vote, and represent, as before directed; and enjoy all the other benefits of a free citizen.

12. Every person absenting himself from an election, and shall neglect to give in his, or their ballot, at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery, and also the appropriation thereof, to be pointed out, and directed by act of the legislature; provided nevertheless, that a reasonable excuse shall be admitted.

13. The manner of electing representatives shall be by ballot, and shall be taken by two or more justices of the peace, in each county, who shall provide a convenient box for receiving the said ballots; and on closing the poll, the ballots shall be compared in public, with the lists of voters that have been taken, and the majority immediately declared; a certificate of the same being given to the persons elected, and also a certificate returned to the house of representatives.

14. Every person intitled to vote shall take the following oath or affirmation, if required, viz.

“ I, A. B. do voluntarily and solemnly swear, or affirm, (as the case may be) that I do owe true allegiance to this state, and will support the constitution thereof. So help me God.”

15. Any five of the representatives elected, as before directed, being met, shall have power to administer the following oath to each other; and they or any other member, being so sworn, shall in the house administer the oath to all other members that attend, in order to qualify them to take their seats, viz.

“ I, A. B. do solemnly swear, that I will bear true allegiance to the state of Georgia, and will truly perform the trust reposed in me; and that I will execute the same to the best of my knowledge, for the benefit of this state, and the support of the constitution thereof; and that I have obtained my election without fraud or bribe whatever. So help me God.”

16. The continental delegates shall be appointed annually by ballot, and shall have a right to sit, debate and vote, in the house

of assembly, and be deemed a part thereof; subject however to the regulations contained in the twelfth article of the confederation of the united states.

17. No person bearing any post of profit under this state, or any person bearing any military commission, under this or any other state, or states, except officers of the militia, shall be elected a representative. And if any representative shall be appointed to any place of profit, or military commission, which he shall accept, his seat shall immediately become vacant, and he shall be incapable of re-election, whilst holding such office.

By this article it is not to be understood, that the office of a justice of the peace is a post of profit.

18. No person shall hold more than one office of profit, under this state, at one and the same time.

19. The governor shall, with the advice of the executive council, exercise the executive powers of government, according to the laws of this state, and the constitution thereof; save only in the case of pardons, and remission of fines, which he shall in no instance grant; but he may relieve a criminal, or suspend a fine, until the meeting of the assembly, who may determine therein, as they shall judge fit.

20. The governor, with the advice of the executive council, shall have power to call the house of assembly together, upon any emergency, before the time which they stand adjourned to.

21. The governor, with the advice of the executive council, shall fill up all intermediate vacancies, that shall happen in offices, till the next general election: And all commissions civil and military shall be issued by the governor, under his hand, and the great seal of the state.

22. The governor may preside in the executive council at all times, except when they are taking into consideration, and perusing the laws and ordinances offered to them by the house of assembly.

23. The governor shall be chosen annually by ballot; and shall not be eligible to the said office for more than one year out of three, nor shall he hold any military commission under any other state or states.

The governor shall reside at such place as the house of assembly for the time being shall appoint.

24. The governor's oath.

“ I, A. B. elected governor of the state of Georgia, by the representatives thereof, do solemnly promise and swear, that I will, during the term of my appointment, to the best of my skill and judgement, execute the said office faithfully and conscientiously, according to law, without favour, affection, or partiality; that I will, to the utmost of my power, support, maintain, and defend the state of Georgia, and the constitution of the same; and use my utmost endeavours to protect the people thereof, in the secure

enjoyment of all their rights, franchises and privileges; and that the laws and ordinances of the state be duly observed, and that law and justice in mercy be executed in all judgments. And I do further solemnly promise and swear, that I will peaceably and quietly resign the government to which I have been elected, at the period to which my continuance in the said office is limited by the constitution: And lastly, I do also solemnly swear, that I have not accepted of the government, whereunto I am elected, contrary to the articles of this constitution. So help me God."

This oath to be administered to him by the speaker of the assembly.

The same oath to be administered by the speaker to the president of the council.

No person shall be eligible to the office of governor, who has not resided three years in this state.

25. The executive council shall meet the day after their election, and proceed to the choice of a president out of their own body; they shall have power to appoint their own officers, and settle their own rules of proceedings.

The council shall always vote by counties, and not individually.

26. Every councillor, being present, shall have power of entering his protest against any measures in council he has not consented to, provided he does it within three days.

27. During the sitting of the assembly, the whole of the executive council shall attend, unless prevented by sickness, or some other urgent necessity; and in that case, a majority of the council shall make a board, to examine the laws and ordinances sent them by the house of assembly; and all laws and ordinances sent to the council, shall be returned in five days after, with their remarks thereon.

28. A committee from the council sent with any proposed amendments to any law, or ordinance, shall deliver their reasons for such proposed amendments, sitting and covered; the whole house at that time, except the speaker, uncovered.

29. The president of the executive council, in the absence or sickness of the governor, shall exercise all the powers of the governor.

30. When any affair that requires secrecy shall be laid before the governor, and the executive council, it shall be the duty of the governor, and he is hereby obliged, to administer the following oath, viz.

"I, A. B. do solemnly swear, that any business that shall be at this time communicated to the council, I will not, in any manner whatever, either by speaking, writing, or otherwise, reveal the same to any person whatever, until leave given by the council, or when called upon by the house of assembly; and all this I swear without any reservation whatever. So help me God."

And

And the same oath shall be administered to the secretary, and other officers, necessary to carry the business into execution.

31. The executive power shall exist, till renewed, as pointed out by the rules of this constitution.

32. In all transactions between the legislative and executive bodies, the same shall be communicated by message, to be delivered from the legislative body to the governor, or executive council, by a committee; and from the governor to the house of assembly, by the secretary of the council; and from the executive council, by a committee of the said council.

33. The governor, for the time being, shall be captain-general, and commander in chief, over all the militia, and other military and naval forces belonging to this state.

34. All militia commissions shall specify, that the person commissioned shall continue during good behaviour.

35. Every county in this state that has, or hereafter may have, two hundred and fifty men, and upwards, liable to bear arms, shall be formed into a battalion, and when they become too numerous for one battalion, they shall be formed into more, by bill of the legislature; and those counties that have a less number than two hundred and fifty, shall be formed into independent companies.

36. There shall be established in each county a court, to be called a superior court, to be held twice in each year, on the first Tuesday in March, in the county of Chatham.

The second Tuesday in March, in the county of Effingham.

The third Tuesday in March, in the county of Burke.

The fourth Tuesday in March, in the county of Richmond.

The next Tuesday, in the county of Wilkes.

And Tuesday fortnight, in the county of Liberty.

The next Tuesday, in the county of Glyn.

And next Tuesday, in the county of Camden.

The like courts to commence in October, and continue as above.

37. All causes and matter of dispute between any parties, residing in the same county, to be tried within the county.

38. All matters of dispute between contending parties, residing in different counties, shall be tried in the county where the defendant resides; except in cases of real estates, which shall be tried in the county where such real estate lies.

39. All matters of breach of the peace, felony, murder, and treason against the state, to be tried in the county where the crime was committed. All matters of dispute, both civil and criminal, in any county where there is not a sufficient number of inhabitants to form a court, shall be tried in the next adjacent county where a court is held.

40. All causes of what nature soever, shall be tried in the superior court, except as hereafter mentioned; which court shall

shall consist of the chief-justice, and three or more of the justices residing in the county; in case of the absence of the chief-justice, the senior justice on the bench shall act as chief justice, with the clerk of the county, attorney for the state, sheriff, coroner, constable, and the jurors. And in case of the absence of any of the aforementioned officers, the justices on the bench to appoint others in their room *pro tempore*. And if any plaintiff or defendant in civil causes shall be dissatisfied with the determination of the jury, then, and in that case, they shall be at liberty within three days to enter an appeal from that verdict, and demand a new trial by a special jury, to be nominated as follows, *viz.* each party, plaintiff and defendant, shall chuse six, six more names shall be taken indifferently out of a box provided for that purpose, the whole eighteen to be summoned, and their names to be put together into the box, and the first twelve that are drawn out, being present, shall be the special jury to try the cause, and from which there can be no appeal.

41. The jury shall be judges of the law, as well as of fact, and shall not be allowed to bring in a special verdict; but if all or any of the jury have any doubts concerning points of law, they shall apply to the bench, who shall each of them in rotation give their opinion.

42. The jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to the rules and regulations contained in this constitution.

43. The special jury shall be sworn to bring in a verdict according to law, and the opinion they entertained of the evidence, provided it be not repugnant to justice, equity and conscience, and the rules and regulations contained in this constitution, of which they shall judge.

44. Captures both by sea and land to be tried in the county where such shall be carried in; a special court to be called by the chief-justice, or, in his absence, by the then senior justice in said county, upon application of the captors or claimants, which cause shall be determined within the space of ten days. The mode of proceeding and appeal shall be the same as in the superior courts, unless after the second trial an appeal is made to the continental congress; and the distance of time between the first and second trial shall not exceed fourteen days: And all maritime causes to be tried in like manner.

45. No grand-jury shall consist of less than eighteen, and twelve may find a bill.

46. That the court of conscience be continued as heretofore practised, and that the jurisdiction thereof be extended to try causes not amounting to more than ten pounds.

47. All

47. All executions exceeding five pounds, except in the case of a court merchant, shall be stayed, until the first Monday in March; provided security be given for debts and costs.

48. All the costs attending any action in the superior court shall not exceed the sum of three pounds, and that no cause be allowed to depend in the superior court longer than two terms.

49. Every officer of the state shall be liable to be called to account by the house of assembly.

50. Every county shall keep the public records belonging to the same; and authenticated copies of the several records, now in the possession of this state, shall be made out, and deposited in that county to which they belong.

51. Estates shall not be entailed, and when a person dies intestate, his or her estate shall be divided, according to the act of distribution made in the reign of Charles the second; unless otherwise altered by any future act of the legislature.

52. A register of probates shall be appointed by the legislature in every county, for proving wills, and granting letters of administration.

53. All civil officers in each county shall be annually elected on the day of the general election, except justices of the peace, and registers of probates, who shall be appointed by the house of assembly.

54. Schools shall be erected in each county, and supported at the general expence of the state, as the legislature shall hereafter point out.

55. A court-house and gaol shall be erected at the public expence in each county, where the present convention, or the future legislature, shall point out and direct.

56. All persons whatever shall have the free exercise of their religion, provided it be not repugnant to the peace and safety of the state; and shall not, unless by consent, support any teacher, or teachers, except those of their own profession.

57. The great seal of the state shall have the following device; on one side a scroll, whereon shall be engraved, *The Constitution of the State of Georgia*, and the motto, *Pro bono publico*; on the other side an elegant house and other buildings, fields of corn, and meadows covered with sheep and cattle; a river running through the same, with a ship under full sail, and the motto, *Deus nobis hæc Otia fecit*.

58. No person shall be allowed to plead in the courts of law, in this state, except those who are authorised so to do by the house of assembly; and if any person so authorised shall be found guilty of mal-practice before the house of assembly, they shall have power to suspend them. This is not intended to exclude any person from that inherent privilege of every freeman, the liberty to plead his own cause.

59. Excessive fines shall not be levied, nor excessive bail demanded.

60. The principles of the habeas corpus act shall be part of this constitution.

61. Freedom of the press, and trial by jury, to remain inviolate for ever.

62. No clergyman, of any denomination, shall be allowed a seat in the legislature.

63. No alteration shall be made in this constitution without petitions from a majority of the counties, and the voters in each county within this state. At which time the assembly shall order a convention to be called for that purpose, specifying the alterations to be made, according to the petitions preferred to the assembly by the majority of the counties as aforesaid.

TREATIES -

T R E A T I E S
B E T W E E N
H I S M O S T C H R I S T I A N M A J E S T Y,
A N D
T H E T H I R T E E N U N I T E D S T A T E S
O F A M E R I C A.

T R E A T Y of AMITY and COMMERCE.

L O U I S, by the Grace of God, King of France and Navarre,

To all who shall see these presents, Greeting :

TH E Congress of the thirteen united states of North-America, having by their plenipotentiaries residing at Paris, notified their desire to establish, with us and our states, a good understanding and perfect correspondence, and having for that purpose proposed to conclude with us a Treaty of Amity and Commerce : We having thought it our duty to give to the said states a sensible proof of our affection, determining us to accept of their proposals : For these causes, and other good considerations us thereunto moving, we, reposing entire confidence in the abilities and experience, zeal and fidelity for our service, of our dear and beloved Conrad Alexander Gerard, royal syndic of the city of Strasbourg, and secretary of our council of state, have nominated, appointed, and commissioned, and by these presents signed with our hand, do nominate, appoint and commission him our plenipotentiary, giving him power and special command for us and in our name to agree upon, conclude and sign with the plenipotentiaries of the united states, equally furnished in due form with full powers, such treaty, convention, and articles of commerce and navigation as he shall think proper, willing that he act with the same authority as we might or could act, if we were personally present, and even as though he had more special command than what is herein contained ; promising in good faith and in the word of a king, to agree to, confirm, and establish for ever, and to accomplish and execute punctually, all that our said dear and beloved Conrad Alexander Gerard shall stipulate and sign, by virtue of the present power, without contravening it in any manner, or suffering

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it to be contravened for any cause, or under any pretext whatsoever; and also to ratify the same in due form, and cause our ratification to be delivered and exchanged in the time that shall be agreed on. For such is our pleasure. In testimony whereof we have hereunto set our seal. Done at Versailles, this thirtieth day of January, in the year of our Lord one thousand seven hundred and seventy-eight, and the fourth year of our reign.

(Signed)

(L. S.)

L O U I S.

(Underneath)

By the King.

GRAVIER de VERGENNESS.

THE T R E A T Y.

THE Most Christian King, and the Thirteen United States of North-America, *to wit*, New-Hampshire, Massachusetts-Bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, willing to fix in an equitable and permanent manner, the rules which ought to be followed relative to the correspondence and commerce which the two parties desire to establish between their respective countries, states and subjects; his most christian majesty and the said united states have judged that the said end could not be better obtained, than by taking for the basis of their agreement, the most perfect equality and reciprocity, and by carefully avoiding all those burthensome preferences which are usually sources of debate, embarrassment and discontent; by leaving also each party at liberty to make respecting navigation and commerce those interior regulations which it shall find most convenient to itself, and by founding the advantage of commerce solely upon reciprocal utility, and the just rules of free intercourse; reserving withal to each party the liberty of admitting, at its pleasure, other nations to a participation of the same advantages. It is in the spirit of this intention, and to fulfill these views, that his said majesty having named and appointed for his plenipotentiary, *Conrad Alexander Gerard*, royal syndic of the city

city of Strasbourg, secretary of his majesty's council of state ; and the united states on their part, having fully empowered *Benjamin Franklin*, deputy from the state of Pennsylvania to the general congress, and president to the convention of the said state ; *Silas Deane*, late deputy from the state of Connecticut to the said congress ; and *Arthur Lee*, counsellor at law : The said respective plenipotentiaries, after exchanging their powers, and after mature deliberation, have concluded and agreed upon the following articles :

Article 1. THERE shall be a firm, inviolable and universal peace, and a true and sincere friendship, between the most christian king, his heirs and successors, and the united states of America, and the subjects of the most christian king and of the said states, and between the countries, islands, cities and towns situate under the jurisdiction of the most christian king, and of the said united states, and the people and inhabitants of every degree, without exception of persons or places, and the terms herein after mentioned shall be perpetual between the most christian king, his heirs and successors, and the said united states.

Art. 2. The most christian king and the united states engage mutually not to grant any particular favour to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favour freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

Art. 3. The subjects of the most christian king shall pay in the ports, havens, roads, countries, islands, cities or towns of the united states, or any of them, no other or greater duties or imposts, of what nature soever they may be, or by what name soever called, than those which the nations most favoured are or shall be obliged to pay ; and they shall enjoy all the rights, liberties, privileges, immunities and exemptions in trade, navigation and commerce, whether in passing from one port in the said states to another, or in going to and from the same, from and to any part of the world, which the said nations do or shall enjoy.

Art. 4. The subjects, people and inhabitants of the said united states, and each of them, shall not pay in the ports, havens, roads, islands, cities and places under the domination of his most christian majesty in Europe, any other or greater duties or imposts, of what nature soever they may be, or by what name soever called, than those which the most favoured nations are or shall be obliged to pay ; and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation and commerce, whether in passing from one port in the said dominions in Europe to another, or in going to and from the same, from and to any part of the world, which the said nations do or shall enjoy.

Art. 5. In the above exemption is particularly comprized, the imposition of one hundred sous per ton, established in France on foreign ships, unless when the ships of the united states shall load with the merchandize of France, for another port of the said dominions; in which case the ships shall pay the duty above mentioned, so long as other nations the most favoured shall be obliged to pay it; but it is understood, that the said united states, or any of them, are at liberty, when they shall judge it proper, to establish a duty equivalent in the same case.

Art. 6. The most christian king shall endeavour, by all the means in his power, to protect and defend all vessels and the effects belonging to the subjects, people or inhabitants of the said united states, or any of them, being in his ports, havens or roads, or on the seas near his countries, islands, cities or towns; and to recover and restore to the right owners, their agents or attornies, all such vessels and effects which shall be taken within his jurisdiction; and the ships of war of his most christian majesty, or any convoy sailing under his authority, shall upon all occasions take under their protection all vessels belonging to the subjects, people, or inhabitants of the said united states, or any of them, and holding the same course, or going the same way, and shall defend such vessels, as long as they hold the same course, or go the same way, against all attacks, force or violence, in the same manner as they ought to protect and defend the vessels belonging to the subjects of the most christian king.

Art. 7. In like manner the said united states, and their ships of war sailing under their authority, shall protect and defend, conformably to the tenor of the preceding article, all the vessels and effects belonging to the subjects of the most christian king, and use all their endeavours to recover, and cause to be restored, the said vessels and effects that shall have been taken within the jurisdiction of the said united states, or any of them.

Art. 8. The most christian king will employ his good offices and interpositions with the king or emperor of Morocco or Fez; the regencies of Algiers, Tunis and Tripoly, or with any of them; and also with every other prince, state or power, of the coast of Barbary in Africa; and the subjects of the said king, emperor, states and powers, and each of them, in order to provide as fully and efficaciously as possible for the benefit, conveniency and safety of the said united states, and each of them, their subjects, people and inhabitants and their vessels and effects, against all violence, insults, attacks or depredations, on the part of the said princes and states of Barbary, or their subjects.

Art. 9. The subjects, inhabitants, merchants, commanders of ships, masters and mariners of the states, provinces and dominions of each party respectively, shall abstain and forbear to fish in the places possessed, or which shall be possessed by the other party; the most christian king's subjects shall not fish in the havens,

havens, bays, creeks, roads, coasts or places, which the said united states hold, or shall hereafter hold; and in like manner the subjects, people and inhabitants of the united states shall not fish in the havens, bays, creeks, roads, coasts or places, which the most christian king possesses, or shall hereafter possess; and if any ship or vessel shall be found fishing contrary to the tenor of this treaty, the said ship or vessel with its lading, (proof being made thereof) shall be confiscated; it is however understood that the exclusion stipulated in the present article, shall take place only so long and so far, as the most christian king or the united states shall not in this respect have granted an exemption to some other nation.

Art. 10. The united states, their citizens and inhabitants, shall never disturb the subjects of the most christian king in the enjoyment and exercise of the right of fishing on the banks of Newfoundland, nor in the indefinite and exclusive right which belongs to them on that part of the coast of that island which is designed by the treaty of Utrecht, nor in the right relative to, all and each of the isles which belong to his most christian majesty, the whole conformable to the true sense of the treaties of Utrecht and Paris.

Art. 11. The subjects and inhabitants of the said united states, or any of them, shall not be reputed *Aubains* in France, and consequently shall be exempted from the *Droit d'Aubaine*, or other similar duty, under what name soever; they may by testament, donation, or otherwise, dispose of their goods, moveable and immoveable, in favour of such persons as to them shall seem good; and their heirs, subjects of the united states, residing whether in France or elsewhere, may succeed them, *ab intestat*, without being obliged to obtain letters of naturalization, and without having the effect of this concession contested or impeded, under pretext of any rights or prerogatives of provinces, cities, or private persons; and the said heirs, whether such by particular title, or *ab intestat*, shall be exempted from the duty called *Droit de detraction*, or other duty of the same kind; saving nevertheless the local rights or duties, as much and as long as similar ones are not established by the united states, or any of them. The subjects of the most christian king shall enjoy on their part, in all the dominions of the said states, an entire and perfect reciprocity, relative to the stipulations contained in the present article: But it is at the same time agreed, that its contents shall not affect the laws made, or that may be made hereafter in France, against emigrations, which shall remain in all their force and vigour; and the united states, on their part, or any of them, shall be at liberty to enact such laws, relative to that matter, as to them shall seem proper.

Art. 12. The merchant ships of either of the parties, which shall be making into a port belonging to the enemy of the other ally, and concerning whose voyage and the species of goods on board
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her there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas, as in the ports and havens, not only her passports, but likewise certificates, expressly shewing that her goods are not of the number of those which have been prohibited as contraband.

Art. 13. If, by exhibiting of the above-said certificates, the other party discover there are any of those sorts of goods which are prohibited and declared contraband, and consigned for a port under the obedience of his enemy, it shall not be lawful to break up the hatches of such ship, or to open any chest, coffers, packs, casks, or any other vessel found therein, or to remove the smallest parcel of her goods, whether such ship belong to the subjects of France or the inhabitants of the said united states, unless the lading be brought on shore, in the presence of the officers of the court of admiralty, and an inventory thereof made; but there shall be no allowance to sell, exchange, or alienate the same in any manner, until that after due and lawful process shall have been had against such prohibited goods, and the court of admiralty shall, by a sentence pronounced, have confiscated the same, saving always as well the ship itself, as any other goods found therein, which by this treaty are to be esteemed free; neither may they be detained on pretence of their being as it were infected by the prohibited goods, much less shall they be confiscated as lawful prize; but if not the whole cargo, but only part thereof shall consist of prohibited or contraband goods, and the commander of the ship shall be ready and willing to deliver them to the captor who has discovered them, in such case the captor having received those goods, shall forthwith discharge the ship, and not hinder her by any means freely to prosecute the voyage on which she was bound. But in case the contraband merchandizes cannot be all received on board the vessel of the captor, then the captor may, notwithstanding the offer of delivering him the contraband goods, carry the vessel into the nearest port, agreeable to what is above directed.

Art. 14. On the contrary it is agreed, that whatever shall be found to be laden by the subjects and inhabitants of either party on any ship belonging to the enemies of the other, or to their subjects, the whole, although it be not of the sort of prohibited goods, may be confiscated in the same manner as if it belonged to the enemy, except such goods and merchandize as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done without knowledge of such declaration; so that the goods of the subjects and people of either party, whether they be of the nature of such as are prohibited or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy before the war, or after the declaration of the same, without the knowledge of it, shall not be liable to confiscation, but shall well and truly be restored

restored without delay to the proprietors demanding the same; but so as that if the said merchandizes be contraband, it shall not be any ways lawful to carry them afterwards to any port belonging to the enemy. The two contracting parties agree, that the term of two months being passed after the declaration of war, their respective subjects, from whatever part of the world they come, shall not plead the ignorance mentioned in this article.

Art. 15. And that more effectual care may be taken for the security of the subjects and inhabitants of both parties, that they suffer no injury by the men of war or privateers of the other party, all the commanders of the ships of his most christian majesty and of the said united states, and all their subjects and inhabitants, shall be forbid doing any injury or damage to the other side; and if they act to the contrary they shall be punished, and shall moreover be bound to make satisfaction for all matter of damage, and the interest thereof, by reparation, under the pain and obligation of their persons and goods.

Art. 16. All ships and merchandize of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either state, and shall be delivered to the custody of the officers of that port, in order to be restored intire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

Art. 17. It shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty, or any other judges; nor shall such prizes be arrested or seized when they come to and enter the port of each party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to shew: On the contrary, no shelter or refuge shall be given in their ports to such as shall have made prizes of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather, or the danger of the sea, all proper means shall be vigorously used, that they go out and retire from thence as soon as possible.

Art. 18. If any ship belonging to either of the parties, their people, or subjects, shall within the coasts or dominions of the other, stick upon the sands, or be wrecked or suffer any other damage, all friendly assistance and relief shall be given to the persons shipwrecked, or such as shall be in danger thereof. And letters of safe conduct shall likewise be given to them for their free

and quiet passage from thence, and the return of every one to his own country.

Art. 19. In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, for seeking of shelter and harbour, to retreat and enter into any of the rivers, bays, roads, or ports belonging to the other party, they shall be received and treated with all humanity and kindness, and enjoy all friendly protection and help; and they shall be permitted to refresh and provide themselves at reasonable rates with victuals, and all things needful for the sustenance of their persons, or reparation of their ships, and conveniency of their voyage, and they shall no ways be detained or hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

Art. 20. For the better promoting of commerce on both sides, it is agreed, that if a war should break out between the said two nations, six months after the proclamation of war shall be allowed to the merchants in the cities and towns where they live, for selling and transporting their goods and merchandizes; and if any thing be taken from them, or any injury be done them within that term, by either party, or the people or subjects of either, full satisfaction shall be made for the same.

Art. 21. No subject of the most christian king shall apply for or take any commission or letters of marque for arming any ship or ships to act as privateers against the said united states or any of them, or against the subjects, people, or inhabitants of the said united states or any of them, or against the property of any of the inhabitants of any of them from any prince or state with which the united states shall be at war; nor shall any citizen, subject, or inhabitant of the said united states or any of them, apply for or take any commission or letters of marque for arming any ship or ships to act as privateers against the subjects of the most christian king, or any of them, or the property of any of the inhabitants of any of them from any prince or state with which the united states shall be at war; nor shall any citizen, subject, or inhabitant of the said united states or any of them, apply for or take any commission or letters of marque for arming any ship or ships to act as privateers against the subjects of the most christian king, or any of them, or the property of any of them, from any prince or state with which the said king shall be at war; and if any person of either nation shall take such commission or letters of marque, he shall be punished as a pirate.

Art. 22. It shall not be lawful for any foreign privateers, not belonging to the subjects of the most christian king, nor citizens of the said united states, who have commission from any other prince or state at enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid

parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandizes or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that prince or state from which they have commissions.

Art. 23. It shall be lawful for all and singular the subjects of the most christian king, and the citizens, people and inhabitants of the said united states, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandize laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the most christian king or the united states. It shall likewise be lawful for the subjects and inhabitants aforesaid, to sail with the ships and merchandizes aforementioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places; but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several. And it is hereby stipulated, that free ships shall also have a freedom to goods, and that every thing shall be deemed free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemies.

Art. 24. This liberty of navigation and commerce shall extend to all kinds of merchandizes, except those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods shall be comprehended arms, great guns, bombs with their fuses and other things belonging to them, cannon ball, gun-powder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenadoes, saltpetre, muskets, muller-ball, bucklers, helmets, breast-plates, coats of mail, and the like kinds of arms proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandizes which follow shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of clothes, and all other manufactures woven of any wool, flax, silk, cotton, or any other materials whatever, all kinds of wearing apparel, together with the species whereof they are used to be made, gold and silver, as well coined as uncoined, tin, iron, latten, copper, brass, coals; as also wheat and barley; and any other

other kind of corn or pulse, tobacco, and likewise all manner of spices, salted and smoaked flesh, salted fish, cheese and butter, beer, oils, wines, sugars, and all sorts of salts, and in general all provisions which serve for the nourishment of mankind and the sustenance of life; furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail-cloth, anchors, and any parts of anchors; also ships masts, planks, boards and beams of what trees soever, and all other things proper either for building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument or thing prepared for war by land or sea, shall not be reputed contraband, much less such as have been already wrought up for any other use; all of which shall be wholly reckoned among free goods; as likewise all other merchandizes and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods, so that they may be transported and carried in the freest manner by the subjects of both confederates even to places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up or invested.

Art. 25. To the end that all manner of dissensions and quarrels may be avoided and prevented on one side and the other, it is agreed, that in case either of the parties hereto should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with sea letters or passports, expressing the name, property and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the subjects of one of the parties, which passport shall be made out and granted according to the form annexed to this treaty; they shall likewise be recalled every year, that is, if the ship happens to return home within the space of a year: it is likewise agreed, that such ships being laden are to be provided not only with passports as above mentioned, but also with certificates, containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound, that so it may be known whether any forbidden or contraband goods be on board of the same, which certificates shall be made out by the officers of the place whence the ship set sail, in the accustomed form; and if any one shall think it fit or advisable to express in the said certificates the person to whom the goods on board belong, he may freely do so.

Art. 26. The ships of the subjects and inhabitants of either of the parties coming upon any coast belonging to either of the said allies, but not willing to enter into port, or being entered into port and not willing to unload their cargoes or break bulk, they shall be treated according to the general rules prescribed or to be prescribed relative to the object in question.

Art. 27. If the ships of the said subjects, people or inhabitants

of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war of the other, or by any privateers, the said ships of war or privateers, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport concerning the property of the ship, made out according to the form inserted in this present treaty; and the ship, when she shall have shewed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search in any manner, or to give her chase, or to force her to quit her intended course.

Art. 28. It is also agreed, that all goods, when once put on board the ships or vessels of either of the two contracting parties, shall be subject to no further visitation, but all visitation or search shall be made before hand, and all prohibited goods shall be stopped on the spot before the same be put on board, unless there are manifest tokens or proofs of fraudulent practice; nor shall either the persons or goods of the subjects of his most christian majesty, or the united states, be put under any arrest or molested by any other kind of embargo for that cause, and only the subject of that state to whom the said goods have been or shall be prohibited, and who shall presume to sell or alienate such sort of goods, shall be duly punished for the offence.

Art. 29. The two contracting parties grant mutually the liberty of having each in the ports of the other, consuls, vice-consuls, agents and commissaries, whose functions shall be regulated by a particular agreement.

Art. 30. And the more to favour and facilitate the commerce which the subjects of the united states may have with France, the most christian king will grant them in Europe one or more free ports, where they may bring and dispose of all the produce and merchandize of the thirteen united states; and his majesty will also continue to the subjects of the said states, the free ports which have been and are open in the French islands of America, of all which free ports the said subjects of the united states shall enjoy the use, agreeable to the regulations which relate to them.

Art. 31. The present treaty shall be ratified on both sides, and the ratifications shall be exchanged in the space of six months, or sooner, if possible.

IN FAITH WHEREOF the respective plenipotentiaries have signed the above articles both in the French and English languages; declaring, nevertheless, that the present treaty was originally composed and concluded in the French language, and they have thereto affixed their seals.

THE T R E A T Y.

THE Most Christian King and the United States of North-America, *to wit*, New-Hampshire, Massachusetts-Bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, and Georgia, having this day concluded a Treaty of Amity and Commerce, for the reciprocal advantage of their subjects and citizens, have thought it necessary to take into consideration the means of strengthening those engagements, and of rendering them useful to the safety and tranquillity of the two parties; particularly in case Great-Britain, in resentment of that connection, and of the good correspondence which is the object of the said treaty, should break the peace with France, either by direct hostilities, or by hindering her commerce and navigation in a manner contrary to the rights of nations, and the peace subsisting between the two crowns. And his majesty and the said united states having resolved in that case, to join their councils and efforts against the enterprizes of their common enemy;

The respective plenipotentiaries impowered to concert the clauses and conditions proper to fulfil the said intentions, have, after the most mature deliberation, concluded and determined on the following articles.

Article 1. IF war should break out between France and Great-Britain during the continuance of the present war between the united states and England, his majesty and the said united states shall make it a common cause, and aid each other mutually with their good offices, their counsels and their forces, according to the exigence of conjunctures, as becomes good and faithful allies.

Art. 2. The essential and direct end of the present defensive alliance is, to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the said united states, as well in matters of government as of commerce.

Art. 3. The two contracting parties shall, each on its own part, and in the manner it may judge most proper, make all the efforts in its power against their common enemy, in order to attain the end proposed.

Art. 4. The contracting parties agree, that in case either of them should form any particular enterprize in which the concurrence of the other may be desired, the party whose concurrence is desired, shall readily and with good faith join to act in concert for that purpose, as far as circumstances and its own particular situation will permit; and in that case, they shall regulate by a particular convention, the quantity and kind of succour to be furnished, and the time and manner of its being brought into action, as well as the advantages which are to be its compensation.

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Art. 5. If the united states should think fit to attempt the reduction of the British power remaining in the northern parts of America, or the islands of Bermudas, those countries or islands, in case of success, shall be confederated with, or dependent upon the said united states.

Art. 6. The most christian king renounces for ever the possession of the islands of Bermudas, as well as of any part of the continent of North-America, which before the treaty of Paris, in 1763, or in virtue of that treaty, were acknowledged to belong to the crown of Great-Britain, or to the united states, heretofore called British colonies, or which are at this time, or have lately been under the power of the king and crown of Great-Britain.

Art. 7. If his most christian majesty shall think proper to attack any of the islands situated in the Gulph of Mexico, or near that gulph, which are at present under the power of Great Britain, all the said isles, in case of success, shall appertain to the crown of France.

Art. 8. Neither of the two parties shall conclude either truce or peace with Great-Britain, without the formal consent of the other first obtained; and they mutually engage not to lay down their arms, until the independence of the united states shall have been formally or tacitly assured, by the treaty or treaties that shall terminate the war.

Art. 9. The contracting parties declare, that being resolved to fulfil each on its own part, the clauses and conditions of the present treaty of alliance, according to its own power and circumstances, there shall be no after-claim of compensation, on one side or the other, whatever may be the event of the war.

Art. 10. The most christian king and the united states agree to invite or admit other powers, who may have received injuries from England, to make common cause with them, and to accede to the present alliance, under such conditions as shall be freely agreed to, and settled between all the parties.

Art. 11. The two parties guarantee mutually from the present time and for ever, against all other powers, *to wit*, The united states to his most christian majesty, the present possessions of the crown of France in America, as well as those which it may acquire by the future treaty of peace; and his most christian majesty guarantees on his part to the united states, their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions, and the additions or conquests, that their confederation may obtain during the war, from any of the dominions now or heretofore possessed by Great-Britain in North-America, conformable to the fifth and sixth articles above written; the whole as their possession shall be fixed and assured to the said states, at the moment of the cessation of their present war with England.

Art. 12. In order to fix more precisely the sense and application of the preceding article, the contracting parties declare, that in

case of a rupture between France and England, the reciprocal guarantee declared in the said article, shall have its full force and effect, the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of the said guarantee shall not commence until the moment of the cessation of the present war, between the united states and England, shall have ascertained their possessions.

Art. 13. The present treaty shall be ratified on both sides, and the ratifications shall be exchanged in the space of six months, or sooner, if possible.

IN FAITH WHEREOF the respective plenipotentiaries, *to wit*, on the part of the most christian king, *Conrad Alexander Gerard*, royal syndic of the city of Strasbourg, and secretary of his majesty's council of state; and on the part of the united states, *Benjamin Franklin*, deputy to the general congress from the state of Pennsylvania, and president of the convention of said state; *Silas Deane*, heretofore deputy from the state of Connecticut; and *Arthur Lee*, counsellor at law, have signed the above articles both in the French and English languages; declaring, nevertheless, that the present treaty was originally composed and concluded in the French language, and they have hereunto affixed their seals.

DONE at PARIS, this Sixth Day of February, One Thousand Seven Hundred and Seventy-Eight.

(L. S.)

C. A. GERARD.

(L. S.)

B. FRANKLIN.

(L. S.)

SILAS DEANE.

(L. S.)

ARTHUR LEE.

T H E E N D.

