

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

CONSTITUTION

OF THE

STATE OF MAINE,

FORMED IN CONVENTION AT PORTLAND, OCTOBER TWENTY NINTH, AND ADOPTED BY
THE PEOPLE IN TOWN MEETINGS ON THE
SIXTH OF DECEMBER, A. D. 1819, AND OF THE INDEPENDENCE OF THE
UNITED STATES THE FORTY FOURTH.

PREAMBLE.

Objects of government.

ARTICLE I.

- SECT. 1. Natural rights.
2. All power inherent in the people.
 3. Religious freedom. All religious sects equal. Religious tests prohibited.
 4. Freedom of speech and publication. Truth may be given in evidence.
 5. Unreasonable searches.
 6. Rights of persons accused.
 7. No person to answer to a capital or infamous crime but on indictment. Exceptions. Juries.
 8. Not to be put in jeopardy twice for one crime.
 9. Sanguinary laws prohibited.
 10. Bailable offences. Habeas corpus.
 11. Bills of attainder, &c. prohibited.
 12. Treason.
 13. Suspension of laws.
 14. Corporal punishment under military law.
 15. Right to petition.
 16. To keep and bear arms.
 17. Standing armies not to be kept.
 18. No soldiers to be quartered on citizens in time of peace.
 19. Right of redress for injuries.
 20. Trial by jury.
 21. Private property not to be taken without compensation.
 22. Taxes.
 23. Titles of nobility prohibited.
 24. Other rights not impaired.

ARTICLE II.

- SECT. 1. Qualifications of electors. Soldiers and seamen in the United States service. Students at colleges or academies.
2. Electors exempt from arrest on days of election.
 3. And from military duty.
 4. Time of election.

ARTICLE III.

- SECT. 1. Powers distributed.
2. Powers to be kept separate.

ARTICLE IV.—PART FIRST.

- SECT. 1. Legislative department. Style of acts.
2. House of representatives to consist of not less than 100 nor more than 200. Number of inhabitants to be ascertained once in ten years at last. Representatives to be apportioned among the counties.
 3. Apportionment among towns.
 4. Qualifications of a representative.
 5. Meetings for choice of representatives. Meetings of classed towns.
 6. Vacancies to be filled.
 7. House to choose its officers.
 8. Power of impeachment.

ARTICLE IV.—PART SECOND.

- SECT. 1. Senate to consist of not less than 20, nor more than 31.
2. State to be districted once in ten years.
 3. Meetings for choice of senators. Electors in unincorporated places.

SECT. 4. Votes to be examined by the governor and council.

5. Senate to decide as to the election of its members. Vacancies how supplied.

6. Qualifications of senators.

7. Senate to try impeachments. Party liable to be tried and punished.

8. Senate to choose its officers.

ARTICLE IV.—PART THIRD.

SECT. 1. Legislature to meet annually. Its powers.

2. Acts to be signed by the governor. Proceedings in case he disapprove. Bills to be returned by him in five days.

3. Each house to judge of elections. Majority a quorum.

4. May punish and expel members.

5. To keep a journal. Yeas and nays.

6. May punish for contempt.

7. Compensation of members. Travelling expenses.

8. Members exempted from arrest. Freedom of debate.

9. Either house may originate bills. Exceptions; money bills.

10. Members not to be appointed to certain offices. Proviso.

11. Persons disqualified to be members.

12. Adjournments.

ARTICLE V.—PART FIRST.

SECT. 1. Governor.

2. Elected for one year.

3. Meetings for choice of governor. Votes to be returned to secretary of state. Provision in case there is no choice.

4. Qualifications of governor.

5. Disqualifications.

6. Compensation.

7. Commander in chief of the militia. Not to march the militia out of the state.

8. With advice of the council to appoint officers.

9. To communicate information to the legislature.

10. May require information of any officer.

11. May remit penalties, and grant pardons.

12. To enforce the laws.

13. To convene the legislature on extraordinary occasions, and adjourn it in case of disagreement.

14. Vacancy how supplied.

ARTICLE V.—PART SECOND.

SECT. 1. Council to consist of seven.

2. Counsellors how chosen.

SECT. 3. Journal to be kept of their proceedings.

4. Persons disqualified to be counsellors. Not to be appointed to any office.

ARTICLE V.—PART THIRD.

SECT. 1. Secretary how chosen.

2. To keep the records of the state.

3. To attend the governor and council.

4. To preserve the records of the executive and legislative departments.

ARTICLE V.—PART FOURTH.

SECT. 1. Treasurer how chosen: ineligible for more than five years in succession.

2. To give bond.

3. Not to engage in trade, &c.

4. No money to be drawn but by warrant.

ARTICLE VI.

SECT. 1. Supreme and other courts.

2. Compensation of justices of S. J. court.

3. To give their opinions when required by either branch of the government.

4. Tenure of judicial offices.

5. Justices of the peace and notaries.

6. Justices of the supreme judicial court to hold no other office.

ARTICLE VII.

SECT. 1. Military officers, by whom elected.

2. Manner of conducting elections.

3. Major generals. Adjutant general. Staff officers.

4. Organization of the militia.

5. Who may be exempted from military duty.

ARTICLE VIII.

SECT. 1. Legislature to require of towns to support public schools. Shall endow colleges and academies. Proviso.

ARTICLE IX.

SECT. 1. Oath and subscriptions. Before whom to be taken.

2. Offices that are incompatible with each other.

3. Commissions.

4. Elections on the first day of January may be adjourned from day to day.

5. Every civil officer may be removed by impeachment or address.

6. Tenure of office.

7. Valuation.

SECT. 8. Real estate to be taxed according to its value.

ARTICLE X.

- SECT. 1. Meeting of the first legislature. Elections for 1820. Senators apportioned. Representatives apportioned. Powers and duties of secretary of state pro tem. in relation to the votes.
2. Duration of the first legislature.
3. Laws now in force continue until repealed.
4. Constitution, how amended.

SECT. 5. Persons in office to continue to hold their offices. Part of a law of Massachusetts made a part of the constitution.

6. Constitution to be enrolled on parchment.

AMENDMENTS.

- ART. I. Meetings in cities for election of representatives and other civil officers regulated.
- II. Certain offences not bailable.
- III. Tenure of judicial offices.

WE the people of Maine, in order to establish justice, insure Preamble. tranquility, provide for our mutual defence, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging with grateful hearts the goodness of the Sovereign Ruler of the Universe in affording us an opportunity, so favorable to the design ; and, imploring his aid and direction in its accomplishment, do agree to form ourselves into a free and independent state, by the style and title of the STATE OF MAINE, and do ordain and establish the following constitution for the government of the same.

ARTICLE I.

Declaration of rights.

SECTION 1. All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness. Natural rights,
2 Greenl. 275.
6 Greenl. 412.

SECT. 2. All power is inherent in the people ; all free governments are founded in their authority and instituted for their benefit ; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it. All power inherent in the people.

SECT. 3. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no one 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, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship :—and all persons demeaning themselves peaceably, as good members of the state, shall be equally under the protection of the laws, and no subordination or preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required Religious freedom.

All religious sects equal.

Religious tests prohibited.

as a qualification for any office or trust, under this state; and all religious societies in this state, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers and contracting with them for their support and maintenance.

Freedom of speech and publication.

SECT. 4. Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press; and in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

Truth may be given in evidence.

Unreasonable searches.
13-Mass. 286.

SECT. 5. The people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause—supported by oath or affirmation.

Rights of persons accused.
2 Fairf. 208.

SECT. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election;

To demand the nature and cause of the accusation, and have a copy thereof;

To be confronted by the witnesses against him;

To have compulsory process for obtaining witnesses in his favor;

1 Greenl. 230.
8 Greenl. 365.
2 Fairf. 208.

To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property or privileges, but by judgment of his peers or the law of the land.

No person to answer to a capital or infamous crime but on indictment. Exceptions.

SECT. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences, as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger. The legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

Juries.

4 Greenl. 439.

Not to be put in jeopardy twice for one crime.

SECT. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb.

Sanguinary laws prohibited.

SECT. 9. Sanguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offence: excessive bail

shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

SECT. 10. *All persons, before conviction, shall be bailable, except for capital offences, where the proof is evident or the presumption great.* And the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Bailable offences.
See amendments. Art. II.
Habeas corpus.

SECT. 11. The legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

Bills of attainder, &c. prohibited.
5 Greenl. 66.
6 Greenl. 112, 355. 7 Greenl. 474. 2 Fairf. 109, 118, 284.
Treason.

SECT. 12. Treason against this state shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

SECT. 13. The laws shall not be suspended but by the legislature or its authority.

Suspension of laws.

SECT. 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service in time of war or public danger.

Corporal punishment under military law.

SECT. 15. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

Right of petition.

SECT. 16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

To keep and bear arms.

SECT. 17. No standing army shall be kept up in time of peace without the consent of the legislature, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

Standing armies not to be kept.

SECT. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

No soldiers to be quartered on citizens in time of peace

SECT. 19. Every person, for an injury done him in his person, reputation, property or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

Right of redress for injuries.

SECT. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised: the party claiming the right may be heard by himself and his council, or either, at his election.

Trial by jury.
3 Greenl. 97.

SECT. 21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it.

Private property not to be taken without compensation.

Taxes.

SECT. 22. No tax or duty shall be imposed without the consent of the people or of their representatives in the legislature.

Titles of nobility prohibited.

SECT. 23. No title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or confirmed; nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

Other rights not impaired.

SECT. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

ARTICLE II.

*Electors.*Qualifications of electors.
7 Greenl. 497.

SECT. 1. Every male citizen of the United States of the age of twenty one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for governor, senators and representatives, in the town or plantation where his residence is so established; and the election shall be by written ballot. But persons in the military, naval or marine service of the United States, or this state, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

7 Greenl. 492, 497.
Soldiers and seamen in the United States service.

Students at colleges and academies.

Electors exempt from arrest on days of election.
8 Greenl. 187.

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

And from military duty.

SECT. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

Time of election.

SECT. 4. The election of governor, senators and representatives, shall be on the second Monday of September annually forever.

ARTICLE III.

Distribution of powers.

Powers distributed.

SECT. 1. The powers of this government shall be divided into three distinct departments, the *legislative*, *executive* and *judicial*.

3 Greenl. 326.
4 Greenl. 140.

Powers to be kept separate.
3 Greenl. 372, 484.

7 Greenl. 14.

SECT. 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted,

ARTICLE IV.—PART FIRST.

LEGISLATIVE POWER.

House of Representatives.

SECT. 1. The legislative power shall be vested in two distinct branches, a house of representatives, and a senate, each to have a negative on the other, and both to be styled the *Legislature of Maine*, and the style of their acts and laws, shall be, "*Be it enacted by the senate and house of representatives in legislature assembled.*"

Legislative department.

Style of acts.

SECT. 2. The house of representatives shall consist of not less than one hundred nor more than two hundred members, to be elected by the qualified electors for one year from the day next preceding the annual meeting of the legislature. The legislature, which shall first be convened under this constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty one, and the legislature, within every subsequent period of at most ten years and at least five, cause the number of the inhabitants of the state to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; and, whenever the number of representatives shall be two hundred, at the next annual meetings of elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of representatives shall be increased or diminished, and if a majority of votes are in favor thereof, it shall be the duty of the next legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.

House of representatives to consist of not less than 100, nor more than 200.

Number of inhabitants to be ascertained once in ten years at least. Representatives to be apportioned among the counties. 3 Greenl. 477.

SECT. 3. Each town having fifteen hundred inhabitants may elect one representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each town having twenty six thousand two hundred and fifty inhabitants may elect seven; but no town shall ever be entitled to more than seven representatives: and towns and plantations duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns; and

Apportionment among towns. 6 Greenl. 486.

each such district may elect one representative; and, when on this apportionment the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations not entitled to elect a representative shall determine against a classification with any other town or plantation, the legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time and such periods, as shall be equal to its portion of representation; and the right of representation, so established, shall not be altered until the next general apportionment.

Qualifications
of a representa-
tive.

SECT. 4. No person shall be a member of the house of representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty one years, have been a resident in this state one year, or from the adoption of this constitution; and for the three months next preceding the time of his election shall have been, and, during the period for which he is elected, shall continue to be a resident in the town or district which he represents.

Meetings for
choice of repre-
sentatives. See
amendments,
art. 1.

7 Greenl. 497.

SECT. 5. The meetings for the choice of representatives shall be warned in due course of law by the selectmen of the several towns seven days at least before the election, and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count and declare them in open town meeting, and in the presence of the town clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the selectmen, and in open town meeting; and a fair copy of this list shall be attested by the selectmen and town clerk, and delivered by said selectmen to each representative within ten days next after such election. And the towns and plantations organized by law, belonging to any class herein provided, shall hold their meetings at the same time in the respective towns and plantations; and the town and plantation meetings in such towns and plantations shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. And the assessors and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have, and are subject to by this constitution. And the selectmen of such

Meetings of
classed towns.

towns, and the assessors of such plantations, so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the selectmen or assessors of the eldest town, or plantation, in such class, and the copies of said lists shall be then examined and compared; and in case any person shall be elected by a majority of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election; and the clerks of towns and plantations respectively shall seal up copies of all such lists and cause them to be delivered into the secretary's office twenty days at least before the first Wednesday in January annually; but in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be had at every future meeting until an election shall have been effected: *provided*, that the legislature may by law prescribe a different mode of returning, examining and ascertaining the election of the representatives in such classes.

SECT. 6. Whenever the seat of a member shall be vacated by death, resignation, or otherwise the vacancy may be filled by a new election. Vacancies to be filled.

SECT. 7. The house of representatives shall choose their speaker, clerk and other officers. House to choose its officers.

SECT. 8. The house of representatives shall have the sole power of impeachment. Power of impeachment.

ARTICLE IV.—PART SECOND.

Senate.

SECT. 1. The senate shall consist of not less than twenty, nor more than thirty one members, elected at the same time, and for the same term, as the representatives, by the qualified electors of the districts, into which the state shall from time to time be divided. Senate to consist of not less than 20, nor more than 31. 7 Greenl. 489.

SECT. 2. The legislature, which shall be first convened under this constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty one, and the legislature at every subsequent period of ten years, cause the state to be divided into districts for the choice of senators. The districts shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of senators shall not exceed twenty at the first apportionment, and shall at each apportionment be increased, until they shall amount to thirty one, according to the increase in the house of representatives. State to be districted once in ten years.

SECT. 3. The meetings for the election of senators shall be notified, held and regulated, and the votes received, sorted, counted, Meetings for choice of senators.

Electors in unincorporated places.

declared and recorded, in the same manner as those for representatives. And fair copies of the list of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the secretary's office thirty days at least before the first Wednesday of January. All other qualified electors, living in places unincorporated, who shall be assessed to the support of the government by the assessors of an adjacent town, shall have the privilege of voting for senators, representatives and governor in such town; and shall be notified by the selectmen thereof for that purpose accordingly.

Votes to be examined by the governor and council.

SECT. 4. The governor and council shall, as soon as may be, examine the returned copies of such lists, and, twenty days before the said first Wednesday of January, issue a summons to such persons; as shall appear to be elected by a majority of the votes in each district, to attend that day and take their seats.

Senate to decide as to the election of its members.

SECT. 5. The senate shall, on the said first Wednesday of January, annually, determine who are elected by a majority of votes to be senators in each district; and in case the full number of senators to be elected from each district shall not have been so elected, the members of the house of representatives and such senators, as shall have been elected, shall, from the highest numbers of the persons voted for, on said lists, equal to twice the number of senators deficient, in every district, if there be so many voted for, elect by joint ballot the number of senators required; and in this manner all vacancies in the senate shall be supplied as soon as may be, after such vacancies happen.

Vacancies how supplied.
6 Greenl. 514.
7 Greenl. 489.

Qualifications of senators.

SECT. 6. The senators shall be twenty five years of age at the commencement of the term, for which they are elected, and in all other respects their qualifications shall be the same, as those of the representatives.

Senate to try impeachments.

SECT. 7. The senate shall have full power to try all impeachments, and when sitting for that purpose shall be on oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present. Their judgment, however, shall not extend farther than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under this state. But the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Party liable to be tried and punished.

Senate to choose its officers.

SECT. 8. The senate shall choose their president, secretary and other officers,

ARTICLE IV.—PART THIRD.

Legislative power.

SECT. 1. The legislature shall convene on the first Wednesday of January annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this state, not repugnant to this constitution, nor to that of the United States.

Legislature to meet annually. Its powers. 6 Greenl. 412. 9 Greenl. 54.

SECT. 2. Every bill or resolution, having the force of law, to which the concurrence of both houses may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the governor, and if he approve, he shall sign it; if not, he shall return it with his objections to the house, in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it. If after such reconsideration, two thirds of that house shall agree to pass it, it shall be sent together with the objections, to the other house, by which it shall be reconsidered, and, if approved by two thirds of that house, it shall have the same effect, as if it had been signed by the governor: but in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of the persons, voting for and against the bill or resolution, shall be entered on the journals of both houses respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect, as if he had signed it, unless the legislature by their adjournment prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

Acts to be signed by the governor.

Proceedings in case he disapprove.

Bills to be returned by him in five days.

SECT. 3. Each house shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house shall provide.

Each house to judge of elections. Majority a quorum.

SECT. 4. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member, but not a second time for the same cause.

May punish and expel members.

SECT. 5. Each house shall keep a journal, and from time to time publish its proceedings, except such parts as in their judgment may require secrecy; and the yeas and nays of the members of either house on any question, shall, at the desire of one fifth of those present, be entered on the journals.

To keep a journal.

Yeas and nays.

May punish for contempt.

SECT. 6. Each house, during its session, may punish by imprisonment, any person not a member, for disrespectful or disorderly behavior in its presence, for obstructing any of its proceedings, threatening, assaulting or abusing any of its members for any thing said, done, or doing in either house : *provided*, that no imprisonment shall extend beyond the period of the same session.

Compensation of members.

SECT. 7. The senators and representatives shall receive such compensation, as shall be established by law ; but no law increasing their compensation shall take effect during the existence of the legislature, which enacted it. The expenses of the members of the house of representatives in travelling to the legislature, and returning therefrom, once in each session and no more, shall be paid by the state out of the public treasury to every member, who shall seasonably attend, in the judgment of the house, and does not depart therefrom without leave.

Travelling expenses.

Members exempted from arrest.

SECT. 8. The senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the legislature, and no member shall be liable to answer for any thing spoken in debate in either house, in any court or place elsewhere.

Freedom of debate.

Either house may originate bills.

SECT. 9. Bills, orders or resolutions, may originate in either house, and may be altered, amended or rejected in the other ; but all bills for raising a revenue shall originate in the house of representatives ; but the senate may propose amendments as in other cases : *provided*, that they shall not, under color of amendment introduce any new matter, which does not relate to raising a revenue.

Exceptions ; money bills.

Members not to be appointed to certain offices. 3 Greenl. 481.

SECT. 10. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which increased during such term, except such offices as may be filled by elections by the people : *provided* that this prohibition shall not extend to the members of the first legislature.

Proviso.

Persons disqualified to be members.

SECT. 11. No member of congress, nor person holding any office under the United States (post officers excepted) nor office of profit under this state, justices of the peace, notaries public, coroners and officers of the militia excepted, shall have a seat in either house during his being such member of congress, or his continuing in such office.

Adjournments.

SECT. 12. Neither house shall during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the houses shall be sitting.

ARTICLE V.—PART FIRST.

EXECUTIVE POWER.

SECT. 1. The supreme executive power of this state shall be vested in a governor.

Governor.

SECT. 2. The governor shall be elected by the qualified electors, and shall hold his office one year from the first Wednesday of January in each year.

Elected for one year.

SECT. 3. The meetings for election of governor shall be notified, held and regulated, and votes shall be received, sorted, counted, declared and recorded, in the same manner as those for senators and representatives. They shall be sealed and returned into the secretary's office in the same manner, and at the same time, as those for senators. And the secretary of state for the time being, shall, on the first Wednesday of January, then next, lay the lists before the senate and house of representatives to be by them examined, and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But, if no person shall have a majority of votes, the house of representatives shall, by ballot, from the persons having the four highest numbers of votes on the lists, if so many there be, elect two persons, and make return of their names to the senate, of whom the senate shall, by ballot, elect one, who shall be declared the governor.

Meetings for choice of governor.

Votes to be returned to secretary of state.

Provision in case there is no choice.

SECT. 4. The governor shall, at the commencement of his term, be not less than thirty years of age; a natural born citizen of the United States, have been five years, or from the adoption of this constitution, a resident of the state; and at the time of his election and during the term for which he is elected, be a resident of said state.

Qualifications of governor.

SECT. 5. No person holding any office or place under the United States, this state, or any other power, shall exercise the office of governor.

Disqualifications.

SECT. 6. The governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

Compensation.

SECT. 7. He shall be commander in chief of the army and navy of the state, and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the state without their consent or that of the legislature, unless it shall become necessary, in order to march or transport them from one part of the state to another for the defence thereof.

Commander-in-chief of the militia.

Not to march the militia out of the state.

SECT. 8. He shall nominate, and, with the advice and consent of the council, appoint all judicial officers, the attorney general, the

With advice of the council to appoint officers.

sheriffs, coroners, registers of probate, and notaries public ; and he shall also nominate, and with the advice and consent of the council appoint all other civil and military officers, whose appointment is not by this constitution, or shall not by law be otherwise provided for ; and every such nomination shall be made seven days, at least, prior to such appointment.

To communicate information to the legislature.

SECT. 9. He shall from time to time give the legislature information of the condition of the state, and recommend to their consideration such measures, as he may judge expedient.

May require information of any officer.

SECT. 10. He may require information from any military officer, or any officer in the executive department, upon any subject relating to the duties of their respective offices.

May remit penalties and grant pardons.

SECT. 11. He shall have power, with the advice and consent of the council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves and pardons, except in cases of impeachment.

To enforce the laws.

SECT. 12. He shall take care that the laws be faithfully executed.

To convene the legislature on extraordinary occasions, and adjourn it in case of disagreement.

SECT. 13. He may, on extraordinary occasions, convene the legislature ; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time, as he shall think proper, not beyond the day of the next annual meeting ; and if, since the last adjournment, the place where the legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the state.

Vacancy how supplied.
6 Greenl. 506.

SECT. 14. Whenever the office of governor shall become vacant by death, resignation, removal from office or otherwise, the president of the senate shall exercise the office of governor until another governor shall be duly qualified ; and in case of the death, resignation, removal from office or other disqualification of the president of the senate, so exercising the office of governor, the speaker of the house of representatives shall exercise the office, until a president of the senate shall have been chosen ; and when the office of governor, president of the senate, and speaker of the house shall become vacant, in the recess of the senate, the person, acting as secretary of state for the time being, shall by proclamation convene the senate, that a president may be chosen to exercise the office of governor. And whenever either the president of the senate, or speaker of the house shall so exercise said office, he shall receive only the compensation of governor, but his duties as president or speaker shall be suspended ; and the senate or house, shall fill the vacancy, until his duties as governor shall cease.

7 Greenl. 499.

ARTICLE V.—PART SECOND.

Council.

SECT. 1. There shall be a council, to consist of seven persons, citizens of the United States, and residents of this state, to advise the governor in the executive part of government, whom the governor shall have full power, at his discretion, to assemble; and he with the counsellors, or a majority of them may from time to time, hold and keep a council, for ordering and directing the affairs of state according to law.

Council to consist of seven.

SECT. 2. The counsellors shall be chosen annually, on the first Wednesday of January, by joint ballot of the senators and representatives in convention; and vacancies, which shall afterwards happen, shall be filled in the same manner; but not more than one counsellor shall be elected from any district, prescribed for the election of senators; and they shall be privileged from arrest in the same manner as senators and representatives.

Counsellors how chosen.

SECT. 3. The resolutions and advice of council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either house of the legislature; and any counsellor may enter his dissent to the resolution of the majority.

Journal to be kept of their proceedings.

SECT. 4. No member of congress, or of the legislature of this state, nor any person holding any office under the United States, (post officers excepted) nor any civil officers under this state, (justices of the peace and notaries public excepted) shall be counsellors. And no counsellor shall be appointed to any office during the time for which he shall have been elected.

Persons disqualified to be counsellors.

Not to be appointed to any office.

ARTICLE V.—PART THIRD.

Secretary.

SECT. 1. The secretary of state shall be chosen annually at the first session of the legislature, by joint ballot of the senators and representatives in convention.

Secretary how chosen.

SECT. 2. The records of the state shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable.

To keep the records of the state.

SECT. 3. He shall attend the governor and council, senate and house of representatives, in person or by his deputies as they shall respectively require.

To attend the governor and council.

SECT. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the governor and council, senate and house of representatives, and, when required, lay the same before either branch of the legislature, and perform such other duties as are enjoined by this constitution, or shall be required by law.

To preserve the records of the executive and legislative departments.

ARTICLE V.—PART FOURTH.

Treasurer.

Treasurer how
chosen: ineli-
gible for more
than five years
in succession.

SECT. 1. The treasurer shall be chosen annually, at the first session of the legislature, by joint ballot of the senators, and representatives in convention, but shall not be eligible more than five years successively.

To give bond.

SECT. 2. The treasurer shall, before entering on the duties of his office, give bond to the state with sureties, to the satisfaction of the legislature, for the faithful discharge of his trust.

Not to engage
in trade, &c.

SECT. 3. The treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

No money to be
drawn but by
warrant.

SECT. 4. No money shall be drawn from the treasury, but by warrant from the governor and council, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the annual session of the legislature.

ARTICLE VI.

JUDICIAL POWER.

Supreme and
other courts.
3 Greenl. 326.
4 Greenl. 140.

SECT. 1. The judicial power of this state shall be vested in a supreme judicial court, and such other courts as the legislature shall from time to time establish.

Compensation
of justices of S.
J. C.

SECT. 2. The justices of the supreme judicial court shall, at stated times receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward.

To give their
opinions when
required by
either branch of
the govern-
ment.

SECT. 3. They shall be obliged to give their opinions upon important questions of law, and upon solemn occasions, when required by the governor, council, senate or house of representatives.

Tenure of judi-
cial offices.
See amend-
ments, art. iii.

SECT. 4. *All judicial officers, except justices of the peace, shall hold their offices during good behavior, but not beyond the age of seventy years.*

Justices of the
peace and no-
taries.

SECT. 5. Justices of the peace and notaries public, shall hold their offices during seven years, if they so long behave themselves well, at the expiration of which term, they may be reappointed or others appointed, as the public interest may require.

Justices of the
supreme judi-
cial court to
hold no other
office.

SECT. 6. The justices of the supreme judicial court shall hold no office under the United States, nor any state, nor any other office under this state, except that of justice of the peace.

ARTICLE VII.

MILITARY.

SECT. 1. The captains and subalterns of the militia shall be elected by the written votes of the members of their respective companies. The field officers of regiments by the written votes of the captains and subalterns of their respective regiments. The brigadier generals in like manner, by the field officers of their respective brigades.

Officers, by whom elected.

SECT. 2. The legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making returns to the governor of the officers elected; and, if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the governor shall appoint suitable persons to fill such offices.

Manner of conducting elections.

SECT. 3. The major generals shall be elected by the senate and house of representatives, each having a negative on the other. The adjutant general and quarter-master general shall be appointed by the governor and council; but the adjutant general shall perform the duties of quarter-master general, until otherwise directed by law. The major generals and brigadier generals, and the commanding officers of regiments and battalions shall appoint their respective staff officers; and all military officers shall be commissioned by the governor.

Major generals.

Adjutant general.

Staff officers.
2 Greenl. 431.

SECT. 4. The militia, as divided into divisions, brigades, regiments, battalions and companies pursuant to the laws now in force, shall remain so organized, until the same shall be altered by the legislature.

Organization of the militia.

SECT. 5. Persons of the denominations of quakers and shakers, justices of the supreme judicial court and ministers of the gospel may be exempted from military duty, but no other person of the age of eighteen and under the age of forty five years, excepting officers of the militia, who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent to be fixed by law.

Who may be exempted from military duty.

ARTICLE VIII.

LITERATURE.

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be their duty to encourage and

Legislature to require of towns to support public schools.

Shall endow colleges and academies.

Proviso.

suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the state: *provided*, that no donation, grant or endowment shall at any time be made by the legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the legislature of the state shall have the right to grant any further powers to, alter, limit or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof.

ARTICLE IX.

GENERAL PROVISIONS.

Oaths and subscriptions.

3 Greenl. 372.

SECT. 1. Every person elected or appointed to either of the places or offices provided in this constitution, and every person elected, appointed, or commissioned to any judicial, executive, military or other office under this state, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation: "I do swear, that I will support the constitution of the United States and of this state, so long as I shall continue a citizen thereof. So help me God."

"I do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as according to the constitution and the laws of the state. So help me God." *Provided*, that an affirmation in the above forms may be substituted, when the person shall be conscientiously scrupulous of taking and subscribing an oath.

Before whom to be taken.

The oaths or affirmations shall be taken and subscribed by the governor and counsellors before the presiding officer of the senate, in the presence of both houses of the legislature, and by the senators and representatives before the governor and council, and by the residue of said officers before such persons as shall be prescribed by the legislature; and whenever the governor or any counsellor shall not be able to attend during the session of the legislature to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the legislature before any justice of the supreme judicial court: *provided*, that the senators and representatives, first elected under this constitution, shall take and subscribe such oaths or affirmations before the president of the convention.

Offices that are incompatible with each other.

SECT. 2. No person holding the office of justice of the supreme judicial court, or of any inferior court, attorney general, county attorney, treasurer of the state, adjutant general, judge of probate,

register of probate, register of deeds, sheriffs or their deputies, clerks of the judicial courts, shall be a member of the legislature; and any person holding either of the foregoing offices, elected to, and accepting a seat in the congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising at the same time within this state, more than one of the offices before mentioned.

SECT. 3. All commissions shall be in the name of the state, Commissions. signed by the governor, attested by the secretary or his deputy, and have the seal of the state thereto affixed.

SECT. 4. And in case the elections, required by this constitution on the first Wednesday of January annually, by the two houses of the legislature, shall not be completed on that day, the same may be adjourned from day to day, until completed, in the following order: the vacancies in the senate shall first be filled; the governor shall then be elected, if there be no choice by the people; and afterwards the two houses shall elect the council. Elections on the first Wednesday of January may be adjourned from day to day.

SECT. 5. Every person holding any civil office under this state, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the governor, with the advice of the council, on the address of both branches of the legislature. But before such address shall pass either house, the causes of removal shall be stated and entered on the journal of the house in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence. Every civil officer may be removed by impeachment or address.

SECT. 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the governor and council. Tenure of office.

SECT. 7. While the public expenses shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years. Valuation.

SECT. 8. All taxes upon real estate, assessed by authority of this state, shall be apportioned and assessed equally, according to the just value thereof. Real estate to be taxed according to its value.

ARTICLE X.

SCHEDULE.

SECT. 1. The first legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September annually shall not commence until the year one thousand eight hundred and twenty one, and in the mean time the election for governor, senators and representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and Meeting of the first legislature. Elections for 1820.

twenty, and at this election the same proceedings shall be had as are required at the elections, provided for in this constitution on the second Monday in September annually, and the lists of the votes for the governor and senators shall be transmitted, by the town and plantation clerks respectively to the secretary of state *pro tempore*, seventeen days at least before the last Wednesday in May next, and the president of the convention shall, in presence of the secretary of state *pro tempore*, open and examine the attested copies of said lists so returned for senators, and shall have all the powers, and be subject to all the duties, in ascertaining, notifying, and summoning the senators, who appear to be elected, as the governor and council have, and are subject to, by this constitution: *provided*, he shall notify said senators fourteen days at least before the last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided: and the senators to be elected on the said first Monday of April, shall be apportioned as follows:

Senators apportioned.

The county of York shall elect three.

The county of Cumberland shall elect three.

The county of Lincoln shall elect three.

The county of Hancock shall elect two.

The county of Washington shall elect one.

The county of Kennebec shall elect three.

The county of Oxford shall elect two.

The county of Somerset shall elect two.

The county of Penobscot shall elect one.

Representatives apportioned.

And the members of the house of representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September, and the first house of representatives shall consist of the following number, to be elected as follows:

York.

COUNTY OF YORK. The towns of York and Wells may each elect two representatives; and each of the remaining towns may elect one.

Cumberland.

COUNTY OF CUMBERLAND. The town of Portland may elect three representatives; North Yarmouth, two; Brunswick, two; Gorham, two; Freeport and Pownal, two; Raymond and Otisfield, one; Bridgton, Baldwin and Harrison, one; Poland and Danville, one; and each remaining town one.

Lincoln.

COUNTY OF LINCOLN. The towns of Georgetown and Phippsburg, may elect one representative; Lewiston and Wales, one; St. George, Cushing and Friendship, one; Hope and Appleton Ridge, one; Jefferson, Putnam and Patricktown plantation, one; Alna and Whitefield, one; Montville, Palermo and Montville plantation, one; Woolwich and Dresden, one; and each remaining town one.

COUNTY OF HANCOCK. The town of Bucksport may elect one Hancock. representative; Deer Island, one; Castine and Brooksville, one; Orland and Penobscot, one; Mt. Desert and Eden, one; Vinalhaven and Islesborough, one; Sedgwick and Bluehill, one; Gouldsbrough, Sullivan and plantations No. 8 and 9 north of Sullivan, one; Surry, Ellsworth, Trenton and plantation of Mariaville, one; Lincolnville, Searsmont and Belmont, one; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson and Thorndike, one.

COUNTY OF WASHINGTON. The towns of Steuben, Cherryfield Washington. and Harrington, may elect one representative; Addison, Columbia and Jonesborough, one; Machias, one; Lubec, Dennysville, plantations No. 9, No. 10, No. 11, No. 12, one; Eastport, one; Perry, Robbinston, Calais, plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

COUNTY OF KENNEBEC. The towns of Belgrade and Dearborn Kennebec. may elect one representative; Chesterville, Vienna and Rome, one; Wayne and Fayette, one; Temple and Wilton, one; Winslow and China, one; Fairfax and Freedom, one; Unity, Joy and twenty five mile pond plantation, one; Harlem and Malta, one; and each remaining town one.

COUNTY OF OXFORD. The towns of Dixfield, Mexico, Weld Oxford. and plantations No. 1 and 4, may elect one representative; Jay and Hartford, one; Livermore, one; Rumford, East Andover and plantations Nos. 7 and 8, one; Turner, one; Woodstock, Paris and Greenwood, one; Hebron and Norway, one; Gilead, Bethel, Newry, Albany and Howard's Gore, one; Porter, Hiram and Brownfield, one; Waterford, Sweden and Lovell, one; Denmark, Fryeburg, and Fryeburg addition, one; Buckfield and Sumner one.

COUNTY OF SOMERSET. The town of Fairfield may elect one Somerset. representative; Norridgewock and Bloomfield, one; Starks and Mercer, one; Industry, Strong and New Vineyard, one; Avon, Phillips, Freeman and Kingfield, one; Anson, New Portland, Embden and plantation No. 1, one; Canaan, Warsaw, Palmyra, St. Albans and Corinna, one; Madison, Solon, Bingham, Moscow and Northhill, one; Cornville, Athens, Harmony, Ripley and Warrenstown, one.

COUNTY OF PENOBSCOT. The towns of Hampden and Newburg Penobscot. may elect one representative; Orrington, Brewer and Eddington and plantations adjacent on the east side of Penobscot river, one; Bangor, Orono, and Sunkhaze plantation, one; Dixmont, Newport, Carmel, Hermon, Stetson, and plantation No. 4, in the 6th range, one; Levant, Corinth, Exeter, New Charlestown, Blakesburg, plantation No. 1 in 3d range, and plantation No. 1 in 4th range,

one; Dexter, Garland, Guilford, Sangerville, and plantation No. 3, in 6th range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburg, plantation No. 1, in 7th range, and plantation No. 3, in 7th range, one.

Powers and duties of secretary of state *pro tem.* in relation to the votes.

And the secretary of state *pro tempore*, shall have the same powers, and be subject to the same duties, in relation to the votes for governor, as the secretary of state has, and is subject to, by this constitution; and the election of governor shall, on the said last Wednesday in May, be determined and declared, in the same manner, as other elections of governor are by this constitution; and in case of vacancy in said office, the president of the senate, and speaker of the house of representatives, shall exercise the office, as herein otherwise provided, and the counsellors, secretary and treasurer, shall also be elected on said day, and have the same powers, and be subject to the same duties, as is provided in this constitution; and in case of the death or other disqualification of the president of this convention, or of the secretary of state *pro tempore*, before the election and qualification of the governor or secretary of state under this constitution, the persons to be designated by this convention at their session in January next, shall have all the powers and perform all the duties, which the president of this convention, or the secretary *pro tempore*, to be by them appointed, shall have and perform.

Duration of the first legislature.

SECT. 2. The period for which the governor, senators and representatives, counsellors, secretary and treasurer, first elected or appointed, are to serve in their respective offices and places, shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January, in the year of our Lord one thousand eight hundred and twenty two.

Laws now in force continue until repealed.

SECT. 3. All laws now in force in this state, and not repugnant to this constitution, shall remain, and be in force until altered or repealed by the legislature, or shall expire by their own limitation.

Constitution how to be amended.

SECT. 4. The legislature, whenever two thirds of both houses shall deem it necessary, may propose amendments to this constitution; and when any amendments shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this constitution.

SECT. 5. All officers provided for in the sixth section of an act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "an act relating to the separation of the district of Maine from Massachusetts proper, and forming the same into a separate and independent state," shall continue in office as therein provided; and the following provisions of said act shall be a part of this constitution, subject however to be modified or annulled as therein is prescribed, and not otherwise, to wit:

Persons in office to continue to hold their offices.

"Sect. 1. Whereas it has been represented to this legislature, that a majority of the people of the district of Maine are desirous of establishing a separate and independent government within said district: therefore,

Part of a law of Massachusetts made a part of the constitution.

"Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same, That the consent of this commonwealth be, and the same is hereby given, that the district of Maine may be formed and erected into a separate and independent state, if the people of the said district shall in the manner, and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions: and provided the congress of the United States shall give its consent thereto, before the fourth day of March next: which terms and conditions are as follows, viz.

"First. All the lands and buildings belonging to the commonwealth, within Massachusetts proper, shall continue to belong to said commonwealth, and all the lands belonging to the commonwealth, within the district of Maine, shall belong, the one half thereof to the said commonwealth, and the other half thereof, to the state to be formed within the said district, to be divided as is hereinafter mentioned; and the lands within the said district, which shall belong to the said commonwealth, shall be free from taxation, while the title to the said lands remains in the commonwealth; and the rights of the commonwealth to their lands, within said district, and the remedies for the recovery thereof, shall continue the same, within the proposed state, and in the courts thereof, as they now are within the said commonwealth, and in the courts thereof; for which purposes, and for the maintenance of its rights, and recovery of its lands, the said commonwealth shall be entitled to all other proper and legal remedies, and may appear in the courts of the proposed state and in the courts of the United States, holden therein; and all rights of action for, or entry into lands, and of actions upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued or may accrue, shall remain in this commonwealth, to be enforced, commuted, released, or oth-

9 Greenl. 88.

erwise disposed of, in such manner as this commonwealth may hereafter determine: *provided however*, that whatever this commonwealth may hereafter receive or obtain on account thereof if any thing, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof to the new state, and two third parts thereof to this commonwealth.

“*Second.* All the arms which have been received by this commonwealth from the United States, under the law of congress, entitled, “an act making provisions for arming and equipping the whole body of militia of the United States, passed April the twenty third, one thousand eight hundred and eight, shall, as soon as the said district shall become a separate state, be divided between the two states, in proportion to the returns of the militia, according to which, the said arms have been received from the United States, as aforesaid.

“*Third.* All money, stock or other proceeds, hereafter derived from the United States, on account of the claim of this commonwealth, for disbursements made, and expenses incurred, for the defence of the state, during the late war with Great Britain, shall be received by this commonwealth, and when received, shall be divided between the two states, in the proportion of two thirds to this commonwealth, and one third to the new state.

“*Fourth.* All other property, of every description, belonging to the commonwealth, shall be holden and receivable by the same as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said commonwealth; and within two years after the said district shall have become a separate state, the commissioners to be appointed, as hereinafter provided, if the said states cannot otherwise agree, shall assign a just portion of the productive property, so held by said commonwealth, as an equivalent and indemnification to said commonwealth, for all such debts, annuities or Indian subsidies or claims, which may then remain due, or unsatisfied: and all the surplus of the said property, so holden as aforesaid, shall be divided between the said commonwealth and the said district of Maine, in the proportion of two thirds to the said commonwealth, and one third to the said district—and if, in the judgment of the said commissioners, the whole of said property, so held, as a fund and security, shall not be sufficient indemnification for the purpose, the said district shall be liable for and shall pay to said commonwealth one third of the deficiency.

“*Fifth.* The new state shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this commonwealth, towards the Indians within said district of Maine, whether the same arise from treaties,

or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this commonwealth of claims and stipulations arising under the treaty at present existing between the said commonwealth and said Indians; and as an indemnification to such new state, therefore, this commonwealth when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new state, the value of thirty thousand dollars, in manner following, viz: the said commissioners shall set off by metes and bounds, so much of any part of the land within the said district, falling to this commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this commonwealth shall, thereupon, assign the same to the said new state, or in lieu thereof, may pay the sum of thirty thousand dollars at its election; which election of the said commonwealth, shall be made within one year from the time that notice of the doings of the commissioners, on this subject, shall be made known to the governor and council; and if not made within that time, the election shall be with the new state.

"Sixth. Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: the executive authority of each state shall appoint two; and the four so appointed or the major part of them, shall appoint two more: but if they cannot agree in the appointment, the executive of each state shall appoint one in addition; not however, in that case, to be a citizen of its own state. And any vacancy happening with respect to the commissioners shall be supplied in the manner provided for their original appointment; and, in addition to the powers herein before given to said commissioners, they shall have full power and authority to divide all the public lands within the district, between the respective states, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality; they shall determine what lands shall be surveyed and divided, from time to time, the expense of which surveys, and of the commissioners, shall be borne equally by the two states. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited from time to time in the archives of the respective states; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The executive authority of each state may revoke the power of either or both its commissioners: having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own commissioners; four of said commissioners shall constitute a quorum, for the transaction of business; their decision shall be final.

upon all subjects within their cognizance. In case said commission shall expire, the same not having been completed, and either state shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner, as is herein provided for filling the same, in the first instance, and with the like powers; and if either state shall, after six months' notice, neglect or refuse to appoint its commissioners, the other may fill up the whole commission.

6 Greenl. 175.

"Seventh. All grants of land, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located, which have been or may be made by the said commonwealth, before the separation of said district shall take place, and having or to have effect within the said district, shall continue in full force, after the said district shall become a separate state. But the grant which has been made to the president and trustees of Bowdoin college, out of the tax laid upon the banks within this commonwealth, shall be charged upon the tax upon the banks within the said district of Maine, and paid according to the terms of said grant; and the president and trustees, and the overseers of said college, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained except by judicial process, according to the principles of law; and in all grants hereafter to be made, by either state, of unlocated land within the said district, the same reservations shall be made for the benefit of schools and of the ministry, as have heretofore been usual, in grants made by this commonwealth. And all lands heretofore granted by this commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society.

4 Greenl. 124.

"Eighth. No laws shall be passed in the proposed state, with regard to taxes, actions, or remedies at law, or bars or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of said proposed state, and the lands and rights of property of the citizens of the proposed state, resident therein; and the rights and liabilities of all persons, shall, after the said separation, continue the same as if the said district was still a part of this commonwealth, in all suits pending, or judgments remaining unsatisfied on the fifteenth day of March next, where the suits have been commenced in Massachusetts proper, and process has been served within the district of Maine; or commenced in the district of Maine, and process has been served in Massachusetts proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits the courts within

Massachusetts proper, and within the proposed state, shall continue to have the same jurisdiction as if the said district had still remained a part of the commonwealth. And this commonwealth shall have the same remedies within the proposed state, as it now has, for the collection of all taxes, bonds or debts, which may be assessed, due, made, or contracted, by, to, or with the commonwealth, on or before the said fifteenth day of March, within the said district of Maine; and all officers within Massachusetts proper and the district of Maine, shall conduct themselves accordingly.

“*Ninth.* These terms and conditions, as here set forth, when the said district shall become a separate and independent state, shall, *ipso facto* be incorporated into, and become and be a part of any constitution, provisional or other, under which the government of the said proposed state, shall, at any time hereafter, be administered; 1 Sumn. 276. subject however, to be modified, or annulled, by the agreement of the legislature of both the said states; but by no other power or body whatsoever.”

SECT. 6. This constitution shall be enrolled on parchment, deposited in the secretary's office, and be the supreme law of the state, and printed copies thereof shall be prefixed to the books containing the laws of this state.

Constitution to be enrolled on parchment.

AMENDMENTS,

To the constitution of Maine, adopted in pursuance of the fourth section of the tenth article of the original constitution.

ARTICLE I.

The electors resident in any city may, at any meeting duly notified for the choice of representatives, vote for such representatives in their respective ward meetings, and the wardens in said wards shall preside impartially at such meetings, receive the votes of all qualified electors present, sort, count and declare them in open ward meetings, and in the presence of the ward clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the warden, and in open ward meeting; and a fair copy of this list shall be attested by the warden and ward clerk, sealed up in open ward meeting, and delivered to the city clerk within twenty four hours after the close of the polls. And the aldermen of any city shall be in session at their usual place of meeting, within twenty four hours after any election, and in the presence of the city clerk shall examine and compare the copies of said lists, and

Manner of electing representatives and other civil officers in cities. Adopted in pursuance of a resolve of March 7, 1834.

in case any person shall have received a majority of all the votes, he shall be declared elected by the aldermen, and the city clerk of any city shall make a record thereof, and the aldermen and city clerk shall deliver certified copies of such lists to the person or persons so elected, within ten days after the election. And the electors resident in any city may at any meetings duly notified and holden for the choice of any other civil officers, for whom they have been required heretofore to vote in town meeting, vote for such officers in their respective wards, and the same proceedings shall be had by the warden and ward clerk in each ward, as in the case of votes for representatives. And the aldermen of any city shall be in session within twenty four hours after the close of the polls in such meetings, and in the presence of the city clerk shall open, examine and compare the copies from the lists of votes given in the several wards, of which the city clerk shall make a record, and return thereof shall be made into the secretary of state's office in the same manner as selectmen of towns are required to do.

ARTICLE II.

Bailable offences. Adopted in pursuance of a resolve of March 30, 1837, as a substitute for the first clause of art. i, sect. 10.

No person before conviction shall be bailable for any of the crimes, which now are, or have been denominated capital offences since the adoption of the constitution, where the proof is evident or the presumption great, whatever the punishment of the crimes may be.

ARTICLE III.

Tenure of judicial offices. Adopted in pursuance of a resolve of March 14, 1839, as a substitute for art. vi, sect. 4.

All judicial officers now in office or who may be hereafter appointed shall, from and after the first day of March in the year eighteen hundred and forty, hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the legislature to the executive) and no longer, unless reappointed thereto.