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*Paris 1876*

JOURNAL

OF

THE CONVENTION

WHICH ASSEMBLED IN CONCORD,

TO REVISE THE CONSTITUTION OF  
NEW HAMPSHIRE,

1791-1792.

*New Hampshire. Constitutional 1791-1792*

PAMPHLET EDITION, printed by order, for the use of  
the Convention assembled in Concord for  
revision of said Constitution, in  
December, 1876.

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NATHANIEL BOUTON, D. D.



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1876.

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CONVENTION

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[A LIST OF THE NAMES of the Members of the Convention of the State of New Hampshire, chosen to revise the Constitution of said state—met at Concord in said state, on Wednesday the 7th day of September, 1791.]

2, 3.]	Names of Towns and places represented.	Names of Representatives.	No. of miles Travelled	Wednesday Sept. 7th. 1791.	Thursday 8th.	Friday, 9th.	Saturday, 10th	Sunday, 11th*	Monday, 12th	Tuesday, 13th.	Wednesday, 14th.	Wednesday Sept 5th. 1792	Thursday, 6th	Friday, 7th	Saturday, 8th.
	Portsmouth	(1) John Pickering, Esq <sup>r</sup> .	52	ni	yi	ni	ni	yi	yi	yi	y				
	Exeter	(2) Edward S. Livermore, Esq <sup>r</sup> .	52	yi	yi	yi	ni	ni	ni	yi	yi				
	Londonderry	(3) Daniel Humphreys, Esq <sup>r</sup> .	40	ni	yi	ni	ni	yi	yi	yi	yi				
	Chester	(4) Doct <sup>r</sup> . Sam <sup>l</sup> Tenney	30	ni	yi	ni	ni	yi	yi	yi	yi				
	Newington	(5) James MacGregore, Esq <sup>r</sup> .	20	ni	ni	yi	ni	yi	yi	yi	yi				
	Greenland	(6) Joseph Blanchard, Esq <sup>r</sup> .	52	ni	ni	ni	ni	ni	ni	ni	ni				
	Rye	(7) Eph <sup>m</sup> Pickering, Esq <sup>r</sup> .	47	ni	ni	i	i	i	ni	ni	ni				
	North Hampton	Mr. George Brackett	54	ni	yi	ni	ni	ni	ni	ni	ni				
	Hampton	Mr. Nathan Goss	47	ni	ni	ni	ni	ni	ni	ni	ni				
	Hampton Falls & Seabrook	Moses Leavitt, Esq <sup>r</sup> .	49	ni	ni	ni	ni	ni	ni	ni	ni				
	Stratham	Christopher Toppan, Esq <sup>r</sup> .	50	ni	ni	ni	ni	ni	ni	ni	ni				
	Kensington	Nath <sup>l</sup> H. Dodge	46	ni	yi	ni	ni	ni	ni	ni	ni				
	South Hampton & East Kingst <sup>n</sup>	Col. Jon <sup>a</sup> . Robinson	45	ni	yi	ni	ni	ni	ni	ni	ni				
	Kingstown	Jeremiah Fogg, Esq <sup>r</sup> .	40	ni	ni	ni	ni	ni	ni	ni	ni				
		Mr. Eliphalet Webster	36	ni	ni	ni	ni	ni	ni	ni	ni				
		Solomon Wheeler, Esq <sup>r</sup> .		ni	ni	ni	ni	ni	ni	ni	ni				

\* It is evident from the journal, that the convention never sat on Sunday.—Ed.

















Enfield, &c.	Jesse Johnson, Esqr.	50	y	n	i	15	87
Hanover	Jonathan Freeman, Esqr.	63	y	n	i	29	74
Lebanon	Elisha Payne, Esqr.	60	n	y	y	33	51
Lyme & Dorchester	Capt. Jon <sup>a</sup> Franklin	72	n	y	y	19	62
Haverhill & Coventry	Col <sup>o</sup> Joseph Hutchins	80	y	n	y	65	14
Piermont & Warren	Wm. Tarlton, Esqr.	82	n	i	n	22	73
Orford & Wentworth	Capt. Nath <sup>l</sup> White	62	y	n	i	31	70
Bath, &c.	Capt. Peter Carlton	100	n	i	n	21	77
Lancaster, &c.	Mr. Wm. Cargill	130	n	i	i	18	81
						57	41
						15	79
						37	58
						38	64
						72	26
						61	34
						62	35
						37	59
						55	31

108 members attended.

[NOTE. On the last page of the foregoing list of names, &c., is the above minute of the number of yeas and nays each time they were called.—ED.]

[NOTE. On a blank leaf of the Journal is the following minute in the hand-writing of the clerk, John Calfe, Esq., viz., "Travel 9376 miles; amount of travel £156. 5. 4; attendance 1048 days."—ED.]

## BIOGRAPHICAL SKETCHES BY THE EDITOR.

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(1) JOHN PICKERING, Esq., was a native of Newington, graduated at Harvard college, in 1761, and having devoted some time to theological studies, was offered the rectorship of an Episcopal church in England. He declined, and applied himself to the study of the law, in which he became eminent. He was attorney-general, 1786; was a leading member of the convention, 1791-2; repeatedly a member of the legislature; president of the senate in 1789, and governor *ex officio* of the state, on the election of Gov. John Langdon to the senate of the United States. In 1790 he was appointed chief-justice of the superior court, which office he held five years. He was afterwards district judge of the United States. He received the degree of LL. D. from Harvard and Dartmouth colleges. He died April 11, 1805, aged 67.

(2) EDWARD S. [ST. LOE] LIVERMORE was a son of Hon. Samuel Livermore, president of the convention; was a lawyer by profession; justice of the superior court of New Hampshire, 1797 to 1799. Removing to Massachusetts, he was a member of congress from 1807 to 1811; he received the degree of LL. D. from Dartmouth college in 1800, and died at Tewksbury, Mass., September 22, aged 80.

(3) DANIEL HUMPHREYS, Esq., was a native of Connecticut; graduated at Yale college, 1757; came to Portsmouth about 1774, as a lawyer; was employed by the general assembly that year to engross acts, for which he received *2l. os. 6d.*; was United States district-attorney, New Hampshire. He died in 1827.

(4) Dr. SAMUEL TENNEY was born in Byfield parish, Newbury, Mass.; graduated at Harvard college, 1772, and commenced the study of medicine. He was present at the battle of Bunker Hill, where he attended to the sick and wounded; served during the whole war; was attached to the Rhode Island line of the army. At the close of the war he retired from his profession and settled in Exeter, N. H. There he was judge of probate many years; representative in congress, 1799 to 1807; he was an original member of the N. H. Medical Society, and its vice-president; a member of the American Academy of Arts and Sciences; an honorary member of the Massachusetts Medical Society, and corresponding member of the Massachusetts Historical Society. As a man of science and learning, and a true lover of his country, his death was much lamented. He died February 6, 1816.



(5) JAMES MCGREGORE, Esq., of Londonderry, was a member of the 4th provincial congress, in May, 1775; was on a committee to prepare a plan for furnishing troops; on the committee for supply of the army, and for the emission of money. He visited the army at Medford in June, 1775, and reported its condition to the committee of supply.

(6) JOSEPH BLANCHARD, Esq., of Chester, born 1753, came to Chester in 1772. Though of quite limited education, he was a man of strong native good sense and sound judgment. He was representative, 1788-1793; delegate to the convention which adopted the Federal Constitution, 1788; senator and councillor, 1800, 1801. He died March 7, 1833, aged 80.

(7) EPHRAIM PICKERING, Esq., of Newington, was appointed second major in Colonel Whipple's regiment in 1776; was one of the committee of correspondence the same year, and was representative in 1780-1782. He was one of the selectmen of Newington in 1775.

(8) MOSES LEAVITT, Esq., of North Hampton, was appointed captain in the continental service, June 13, 1776, and authorized to raise one hundred men to join the army in New York; was on a committee of officers, at Hampton, in 1777, to petition the honorable committee of safety to take measures for the defence of the seacoast; again appointed, 1778, to enlist soldiers for the continental army; was appointed lieutenant-colonel of third regiment of New Hampshire militia in 1781, and was representative to the general assembly in 1782, 1783.

(9) Hon. CHRISTOPHER TOPPAN, of Hampton, was a very useful and distinguished citizen, son of Dr. Edmund Toppan, and grandson of Rev. Christopher Toppan, of Newbury, Mass. His mother was a daughter of Colonel Joshua Wingate. Mr. Toppan often represented the town in the legislature, was councillor in 1786, 1790, 1794. He died February, 1819, aged 84.

(10) Hon. WILLIAM PLUMER, of Epping, was one of the most intelligent, active, and influential members of the convention. He was born in Newbury, Mass., June 25, 1759; in early life was a preacher; afterwards entered the law, and devoted a great part of his time to civil affairs, in the service of the people: representative from Epping eight years, senator, president of the senate, speaker of the house of representatives, senator in congress 1802-1807; for four years, 1812, 1816-1818, governor of the state, and in 1820, presidential elector. He was one of the original members and first president of the New Hampshire Historical Society, 1823, and made a donation to the society of a large and valuable collection of books, mostly public documents which he had collected and bound together. He died December 22, 1850, at the advanced age of 91 years. (See *Memoir*, &c., by his son, William Plumer, Jr.)

(11) Gen. JOSEPH CILLEY, was a native of Nottingham, son of Captain Joseph Cilley, one of the original settlers of the town. He was of the company that siezed Fort William and Mary in 1774. At the commencement of the revolution he entered the army, was major, colonel, and had command of the first N. H. regiment. He was distinguished for bravery and patriotism during the whole contest; was a

member of the Society of the Cincinnati, major-general of the N. H. militia 1786, and as such headed the troops that quelled the insurrection in Exeter that year, arresting the leader of the rebels with his own hand. Several times elected representative. He was senator and councillor. He died, full of honors, August, 1799, aged 65.

(12) JOHN McCLARY, of Epsom, was a delegate to the Provincial Congress which met May, 1775, a representative from Epsom 1776 and 1778, a member of the committee of safety, councillor from 1780 to 1784, senator from 1784 to 1787, president of the senate 1785 and 1786, and member of the convention 1791-92. He died June 16, 1801, aged 82.

(13) BENJAMIN SIAS, Esq., was of Canterbury. He marched to Saratoga, July, 1777, with eight volunteers from that town and Loudon; had command of the fifth company in Col. Stickney's regiment at the battle of Bennington; and of the second company of Col. Nichols's regiment in Gen. Whipple's brigade, in Rhode Island, 1778; was at Portsmouth with a company in 1779. He was a brave man, and ever ready for action.

(14) Hon. ABIEL FOSTER, of Canterbury, a native of Andover, Mass., born August, 1735; was a graduate of Harvard college, 1756; ordained as minister of the Congregational church in Canterbury, 1761; was dismissed 1779, and became distinguished in civil life as a magistrate and legislator—representative, senator two years, and president of that body; elected to congress in 1783, he was a member three years under the old confederation; under the constitution of 1788 he was a member ten years between 1789 and 1803. During life he was eminently useful and honored. He died in Canterbury, February, 1806, aged 71.

(15) Hon. TIMOTHY WALKER was the only son of Rev. Timothy Walker, the first minister of Concord; born June 27, 1737; was a graduate of Harvard college, 1756; studied theology, and was licensed to preach, September 11, 1759; preached in various places without settlement about six years. Subsequently he engaged for a while in mercantile pursuits,—but, as the revolution came on, he entered with patriotic fervor into the service of his country. He was a member of the provincial congress in Exeter, May, 1775; one of the committee of supplies; paymaster of N. H. troops at Bunker Hill and elsewhere; colonel of the third N. H. regiment. In January, 1776, he was one of the committee "to make a draft of the Declaration of Independence of the United Colonies;" was one of the committee of safety; of the council from 1776 to 1779; was repeatedly chosen as a delegate to the continental congress (though probably did not attend); was a member of the constitutional conventions in 1778 and 1781; justice of the court of common pleas from 1777 to 1809, being chief-justice the last five years. In 1798 Judge Walker was the candidate of the republican party for governor, against Governor John Taylor Gilman. Filling all town and state offices to which he was called with fidelity and honor, he died in the mansion where he was born, May 5, 1822, aged 85. (See Bouton's *Hist. Concord*, pp. 579-582, etc.)

(16) Col. NATHANIEL HEAD was born in that part of Chester which is now Hooksett; he married a daughter of Timothy Knox, of Pem-



broke; was at Winter Hill in 1775 and 1776; ensign in Capt. Sias's company of Col. Nichols's regiment in the expedition to Rhode Island, 1778, and captain in Col. Runnels's regiment, 1781. He was the grandfather of Gen. Natt Head, of Hooksett.

(17) Hon. JOHN CALFE, a native of Hampstead, clerk of this convention, was twenty-nine years a justice of the peace, twenty-five years on the bench of the court of common pleas, and twenty-five years clerk of the house of representatives. He was a useful and good man. He died October 30, 1803, aged 69.

(18) Dr. NATHANIEL PEABODY, Esq., of Atkinson, was one of the distinguished men of his times. He was born in Topsfield, Mass., March 1, 1741, son of Dr. Jacob Peabody; his mother, Susanna, was a daughter of Rev. John Rogers, of Boxford, a descendant of the martyr of that name. Having studied medicine with his father, he settled in Atkinson, and had extensive practice. By turns he held almost every office of trust and honor in the town and state—selectman, representative, justice of the peace and quorum, colonel, adjutant-general of the state, 1777–1778; commissioner with Jonathan Blanchard, Esq., of Dunstable, to meet in convention at New Haven, Connecticut, “to regulate the prices of labor,” December, 1777; member of congress, 1779–1781; and major-general of the militia of the state, 1793. In the latter part of his life he was much in debt, for which he was confined in Exeter jail, where he died June 27, 1823, aged 82.

(19) JAMES GIBSON, Esq., of Pelham, was a member of the fifth provincial congress, at Exeter, in December, 1775; representative, 1776; one of a committee to go to Boston to obtain information in order to fix on a method for raising an army; representative, 1777; on committee for regulation of trade, justice of the peace, and again representative in 1778.

(20) JOHN WALDRON, Esq., of Dover, was a representative in the provincial assembly 1774, and of the third provincial congress, at Exeter, April, 1775. He was captain of a company in Dover, that was designated by Gen. Sullivan to march to Winter Hill, in December, 1775, to take the place of the Connecticut forces that refused to remain there. In 1776 he was colonel of a regiment, which was pronounced by Gen. Sullivan to be “the first complete regiment on the spot, and by far the largest and best that came from either colony.” He was a brave officer. In March, 1782, he was representative from Dover to the general assembly.

(21) Hon. EBENEZER THOMPSON was a native of Durham, and for many years one of the most prominent of her citizens. He was many times representative, clerk of the house and senate, secretary of state 1775–1785, councillor 1787, commissioner to New Haven 1777, a member of the committee of safety 1775–1781, justice of the superior court, delegate to congress 1783, &c. He died August, 1802, aged 65.

(22) Dr. JAMES HOW, of Rochester, was a respectable physician, and sometime member of the general court. He died October 13, 1807, aged 54.

(23) Rev. WILLIAM HOOPER, of Madbury, was a Baptist elder, formerly of Berwick, Maine. He commenced preaching in Madbury about 1773, and continued there several years.

(24) THOMAS COGSWELL, Esq., son of Nathaniel Cogswell, born in Haverhill, Massachusetts, August 4, 1746. At the age of 24 he married Ruth, daughter of Gen. Joseph Badger, of Gilmanton; was an officer in the revolutionary war, with the rank of colonel; often moderator and selectman in the town; in 1784 to 1810 chief-justice of the court of common pleas, and was twice a candidate for representative to congress. In September, 1804, he presented the Congregational church in Gilmanton twenty-five dollars for purchasing *a sacramental service* for the use of the church. He died September 3, 1810, aged 64. His wife survived him, and died Oct. 16, 1839, aged 88. (See *History of Gilmanton.*)

(25) Hon. EBENEZER SMITH, son of Daniel Smith, of Exeter; born in 1734, was a proprietor of the town of Gilmanton, but became an early settler in Meredith, 1768, and was as a "father to the town for many years." He was representative, justice of the peace, judge of probate, lieutenant-colonel of the 10th regiment militia, and two years president of the senate. He died at Meredith, August 27, 1807, aged 73.

(26) DANIEL BEDEE, Esq., was a member of the fifth provincial congress, at Exeter, December, 1775; town-clerk and justice of the peace the same year. He was representative to the general court, justice of the quorum, judge of the court of common pleas, and was a useful and much respected citizen of Sandwich.

(27) Col. NATHAN HOIT, of Moultonborough, was a brave officer in the revolution; in 1777 he was ensign in Capt. Daniel Livermore's company; in 1781 he was lieutenant, and gradually advanced to the command of a regiment.

(28) DAVID COPP, Esq., of Wakefield, was a prominent citizen; in 1771 he was appointed by Gov. John Wentworth one of a committee to lay out a road from Wolfeborough to Dartmouth college; in August, 1775, he was first major in Col. Joseph Badger's regiment of militia; in November the same year he had command of a company for the defence of the Piscataqua harbor and fortresses; in November, 1780, lieutenant-colonel of the 19th regiment of militia; and in 1782-1783 he represented the town in the legislature.

(29) Col. DAVID PAGE was one of the early settlers in Conway. He went thither from Concord, about 1765, and became a leading citizen of the town.

(30) Capt. WILLIAM BARRON, of Merrimack, was a member of the Hillsborough county congress, that met in Amherst, April, 1775; was captain of Company 9, under Col. Isaac Wyman, 1776, and of Company 3, under Col. Moses Nichols, 1780, for the defence of West Point. He was a brave officer and prompt in duty.

(31) ZECHARIAH CHANDLER, Esq., born in Bedford, May 28, 1751, died April 20, 1830, aged 79. He was grandfather of the Hon. Zach



Chandler, of Detroit, Michigan, who succeeded Gen. Lewis Cass as U. S. senator, and is Secretary of the Interior at Washington.

(32) DANIEL EMERSON, Esq., of Hollis, was appointed a coroner for Hillsborough county in 1776; captain of the 5th company in Colonel Mooney's regiment, 1779, for the expedition to Rhode Island, and was representative in 1782; he was a councillor in 1787, and died October 4, 1821, aged 75.

(33) Hon. JOSHUA ATHERTON, born at Harvard, Massachusetts, June 20, 1737; was a graduate of Harvard college, 1762; commenced the practice of law in Amherst, 1772; was father of Hon. Charles H. Atherton, and grandfather of Hon. Charles G. Atherton, both distinguished as lawyers and civilians. In the revolution, Mr. Atherton at first favored the loyalists, and for a time was imprisoned in Amherst jail, but subsequently regained the confidence of his fellow-citizens; was a member of the convention that adopted the federal constitution 1788, state senator 1793, and attorney-general of the state 1793-1801. He died in Amherst, April 3, 1809, aged 71.

(34) CHARLES BARRETT, Esq., was a distinguished citizen of New Ipswich, son of Dea. Thomas Barrett, born in 1740; a man of inventive genius and mechanical skill and enterprise, and an early manufacturer. At the beginning of the revolution he was suspected of tory principles, but he regained the confidence of his fellow-citizens; was a delegate to the federal convention in 1788, representative 14 years, a senator and councillor. He died September 21, 1808, aged 68.

(35) WILLIAM ABBOTT, Esq., born in Andover, Mass., Jan. 14, 1748; settled in Wilton in 1772, where he was for many years a prominent man in town affairs, serving as selectman, town-clerk, and representative; he was also a member of the conventions of 1788 and 1791-2. He was a patron of learning, good order, and religious institutions, and a man of strict integrity. He died November 30, 1793, aged 45, leaving a wife, six sons, and three daughters.

(36) Hon. JEREMIAH SMITH was one of the most active and influential members of the convention. He was a native of Peterborough, born November 29, 1759; he was in the battle of Bennington at the age of 18; graduated at Rutgers college in New Jersey, 1780; admitted to the bar 1786, and practised in his native town about ten years; represented that town 1788-1790; a member of congress 1791-1799, four terms. In February, 1801, he was appointed by President Adams judge of the circuit court of the United States; in 1809 he was elected governor of the state; was chief-justice of the superior court from May, 1802, to May, 1809, and of the supreme judicial court from July, 1813, to June, 1816. He received the honorary degree of LL. D. both from Harvard and Dartmouth colleges. He settled in Exeter about 1797, where he resided the greater part of his public life, useful and honored. He died at Dover, September 21, 1842, aged 83. (See *Memoir of*, by Rev. John H. Morrison.)

(37) ROBERT WALLACE, Esq., of Henniker, was a native of Londonderry, judge of the court of common pleas for Hillsborough county

from 1803 to 1813; councillor from 1788 to 1789, and from 1790 to 1803, making in all 14 years. He died in January, 1815, aged 66.

(38) Major BENJAMIN PIERCE, of Hillsborough, born December 25, 1757, in Chelmsford, Mass.; governor of the state in 1827, and again in 1829; was the father of Franklin Pierce, president of the United States in 1852-1856. He was a soldier in the revolution, afterwards inspector-general of the Hillsborough county militia, and brigadier-general; sheriff of the county 1807-1814, and 1819-1827; representative eleven years, and councillor six years. A gentleman of the old school, and of generous and noble impulses, he was held in honor as a citizen. He died at his family mansion in Hillsborough, April 1, 1839, in the 82d year of his age.

(39) Rev. AMOS WOOD was pastor of a Baptist church in Weare; he was ordained November 19, 1788, and died February 3, 1793.

(40) Major CALEB STARK was the eldest son of Gen. John Stark, born December 3, 1759. He was at the battle of Bunker Hill in 1775; continued in the army through the war; he had commission as ensign in 1776; was adjutant in Col. Cilley's regiment in the battle of Behmus Heights, October, 1777. After the revolution he resided in Boston as an importing merchant some years, but in 1812 he engaged in cotton manufacture in Suncook, New Hampshire. He died in Oxford, Ohio, August 26, 1838, but was buried in Dunbarton.

(41) Rev. JONATHAN SEARLS was born in Rowley, Massachusetts; graduated at Harvard college, 1765; was minister of the Congregational church in Salisbury, of which Col. Ebenezer Webster was a member. He was ordained November 17, 1773, dismissed November 8, 1791, and died in December, 1819, aged 74.

(42) NATH'L SARTILE PRENTICE, of Alstead, was town-clerk in 1775, representative in 1775 and 1776; was captain of a company, and justice of the peace for Cheshire county in 1776, and in July of that year was one of the committee of safety. When the dispute arose relating to the New Hampshire grants, 1776-1780, he took sides with Vermont, and on Dec. 5, 1781, a warrant was issued for his arrest, on charge of "acting as an officer of Vermont" within the bounds of New Hampshire, and as "guilty of sundry acts inimical to this state." Accordingly he was arrested, tried by the committee of safety, and imprisoned in Exeter gaol, 1782. In March the general assembly voted "to strike off his name from the list of civil officers in the state." It appears that he regained the confidence of his fellow-citizens, and was delegate to the convention in 1791-92.

(43) DANIEL NEWCOMB, Esq., of Keene, graduated at Harvard college 1768; was town-clerk; one of the delegates to the convention in Walpole, November 15, 1780, relating to the jurisdiction of the New Hampshire grants, and again at Charlestown in January 24, 1781. In 1796-1798 he was chief-justice of the court of common pleas for Cheshire county. He died 1818.

(44) Col. DANIEL RAND, of Rindge, was born in Shrewsbury, Massachusetts, Oct. 15, 1742, son of Solomon Rand. In the revolution he



was an ensign in the Lexington company, lieutenant in Col. Isaac Wyman's regiment in 1776, and captain in Col. Moore's regiment in 1777, and was appointed colonel of New Hampshire militia about 1785. He represented the town in the legislature ten years, and seven years was one of the selectmen of the town; a man "of strict integrity and unimpeachable character." He died July 3, 1811, aged 69.

(45) JOHN DUNCAN, Esq., was a native of Londonderry, and settled in Antrim in 1773, his family being the seventh that settled there. He was long an eminent citizen, being selectman, town-clerk, representative, and senator. His cheerfulness, candor, and integrity won him many friends. As a magistrate, he was eminently a peace-maker; and as an elder of the church, he labored to advance the moral and religious interests of the town. Sometimes, but sparingly, he indulged in sallies of wit. A Mr. Pickering, an eminent lawyer, once said in the house of representatives that lawyers were the *pillars* of the state, as without their aid not a single important bill could be drafted. Mr. Duncan rose and said, in his Scottish accent,—"*Mr. Speaker*: There are different kinds of *pallyars*: there is a kind of pallyars that supports buildings; there is also another kind of pallyars called *cater-pallyars*, that devour men's substance. If the gentleman refers to the latter kind of *pallyars*, I perfectly agree with him." He closed his long life in March, 1823, at the age of 89. (*Hist. of Antrim.*)

(46) Hon. SAMUEL LIVERMORE, Esq., president of the convention, was probably a descendant of John Livermore, who was in Watertown, Mass., 1642. He was born in Waltham, Mass., May 14, 1732, O. S; graduated at Princeton, N. J., 1752; came to New Hampshire 1757, and established himself in Portsmouth; for several years was judge-advocate of the admiralty court, and in 1769 was the king's attorney-general for New Hampshire. About 1765 he settled in Holderness, Grafton county; representative from that town; attorney-general of the state before the revolution, and afterward, 1776; in 1779 he was appointed commissioner to support and defend the claims to the New Hampshire grants; member of congress 1780-1782, and then chief-justice of the state 1782-1790, as successor of Hon. Meshech Weare. He was a member of the federal convention in 1788; again elected to congress 1790-1793; United States senator six years; he received the honorary degree of LL. D. from Dartmouth college 1792. He died at Holderness, May, 1803, in the 72d year of his age.

(47) ELISHA PAYNE, Esq., of Lebanon, graduate of Dartmouth college in 1784; died 1808, aged 45.

[P. 37.] A JOURNAL OF THE PROCEEDINGS OF THE CONVENTION OF THE STATE OF NEW HAMPSHIRE FOR REVISING THE CONSTITUTION OF SAID STATE.

Wednesday, Sept<sup>r</sup>. 7<sup>th</sup> 1791.

Upwards of eighty members met in Convention agreeably to precepts issued for that purpose: After making choice of the Hon<sup>bl</sup> Timothy Walker, Esq. as chairman and being sworn, proceeded to the choice of a Secretary by ballot, and John Calfe, Esq. was chosen and sworn for that purpose.

Motion was then made for the choice of a President and the Hon<sup>bl</sup>. Samuel Livermore, Esq. was chosen.

Voted, That Mr. Cilley, Mr. Thompson, Mr. Newcomb, Mr. Walker & Mr. Macgregore be a Committee to examine the returns of the several members and report thereon.

Voted, That Mr. Plummer, Mr. Page, Mr. Rogers, Mr. [P. 38.] Livermore & Mr. Atherton be a Committee to report such rules as they may judge necessary to be observed in regulating the proceedings in this Convention.

Voted that the Rev<sup>d</sup> Mr. Evans be requested to attend and officiate as Chaplain (1) to this Convention during their present Session.

Adjourned to 9 o'clock to-morrow morning.

Thursday, Sept<sup>r</sup> 8<sup>th</sup>, 1791.

Met according to adjournment.

The Committee to examine the returns having reported: Resolved that the returns of members from the Towns and districts intitled to send delegates to this Convention be received and deemed sufficient unless any particular objection is made thereto.

With respect to Towns that had chosen members, who had not heretofore sent Representatives to the General Court, the Committee reported as follows:—That the Town of Epsom is intitled by Constitution to send a member to Convention.

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(1) The Rev. Israel Evans was at this time minister of Concord, and pastor of the Congregational church. He was a chaplain in the army during the revolution. From 1777 till the close of the war he was connected with the New Hampshire brigade, at first under the command of Gen. Enoch Poor. He was a great admirer and friend of Gen. Washington. It is related that in his last sickness, being visited by Rev. Dr. McFarland, his successor in office, the latter prayed for him, "That at life's close he might sit down with Abraham, Isaac, and Jacob in the kingdom of God." To which Mr. Evans audibly added, "*and with Washington, too.*" He died in Concord, March 9, 1807, in the 60th year of his age.—ED.



[P. 39.] They have also had satisfactory evidence to them, that Northwood & Allenstown have a Constitutional right to send a member, & that Allenstown was notified to join in the meeting at which Jonathan Clark Esq was chosen.

It appears to your Committee from evidence satisfactory to them that Hinnekar & Hillsborough each have a right by the Constitution to send members.

The Town of Litchfield hath not been classed with any other Town for representation since the Constitution was adopted & therefore have not been represented in the General Court, but would have been entitled to send a member had they petitioned the General Court for the purpose.

That Rochester has a Constitutional right to send two members to the Convention.

The foregoing report was accepted, and the Delegates allowed a seat in Convention.

The Committee to report such Rules as they judged necessary to be observed in regulating the proceedings in Convention reported the following rules.

[P. 40.] 1<sup>st</sup>. The President having taken the Chair and a Quorum being present, the Journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries.

2<sup>d</sup>. No member shall speak to another or otherwise interrupt the business of the Convention while the Journal is reading or when any member is speaking; nor pass between the President and a member speaking.

3<sup>d</sup>. Every member when he speaks shall stand up and address the President and when he has finished shall sit down.

4<sup>th</sup>. No member shall speak more than twice in any one debate on the same day without leave of the Convention.

5<sup>th</sup>. When two members rise at the same time, the President shall name the person to speak, but in all cases the person first rising shall speak first.

[P. 41.] 6<sup>th</sup>. When the President shall stand up to put the question, the members shall sit down and keep silence.

7<sup>th</sup>. No motion shall be debated until the same shall be seconded—and any member may at any time withdraw his motion.

8<sup>th</sup>. When a motion shall be made and seconded it shall if desired by the President or any member be reduced to writing, delivered in at the table and read by the President before the same shall be debated.

9<sup>th</sup>. While a question is before the Convention, no motion shall be received, unless for an amendment, for postponing the main question, or to commit it, or to adjourn.

10<sup>th</sup>. The previous question being moved and seconded, the question from the Chair shall be, "Shall the main question be now put?" and if the negative prevails the main question shall not then be put.

[P. 42.] 11<sup>th</sup>. If a question in debate contain several points, any member may have the same divided.

12<sup>th</sup>. Committees of less than five shall be nominated by the President, but Committees of five or more shall be chosen by ballot.

13<sup>th</sup>. Questions of order shall be determined by the President, but any member may appeal to the Convention; and when a member is called to order, he shall sit down until the question is determined, whether he is in order or not, which shall be decided without debate, but the member may explain.

14<sup>th</sup>. The yeas & nays if called for by any one member shall be entered on the Journal upon any proposition moved to be sent out to the people as an amendment or alteration to the Constitution; and each member present, and having heard the debates upon the particular question shall give his yea or nay except excused by a vote of the Convention: [P. 43.] —and in the same manner may the yeas and nays be taken and entered on the Journal upon all the amendments collectively agreed to by the Convention to be sent out to the people.

15<sup>th</sup>. Every question being put by the President shall be taken to be in the affirmative unless disputed by a member, on which case, the members shall be counted beginning with those in the affirmative standing up, and then those in the negative the same; and every member having heard the debates shall vote upon the question, except excused by a vote of the Convention.

16<sup>th</sup>. No person except a member or an officer of this Convention shall be allowed to come within the Bar of the House, (1) except such public characters as the President may invite, for whom particular seats shall be assigned.

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(1) The meeting of the convention was held in the town-house in Concord, built in 1790, and designed at the time partly for the accommodation of the general court. It was a one-story building, on the spot where the city hall stands, with a door in the middle. The interior contained two rooms,—one for the house of representatives, on the north side, and the other for the senate, on the south, with several small committee-rooms on the back side. A stairway led to a small gallery for spectators. In this building the general court held its sessions till the completion of the state house in 1819. See Bouton's *Hist. of Concord*, pp. 304-307.—ED.



Which Report was read and considered, received and accepted.

Read the Bill of Rights & Constitution of the State.

[P. 44.] Adjourned to 3 o'clock, P. M.

Met accordingly.

Voted That the Constitution be read by sections or articles, in order that any member may offer his sentiments relative to any defects therein and propose such alterations as he may think necessary. The 1<sup>st</sup>, 2<sup>d</sup>, 3<sup>d</sup>, 4<sup>th</sup> & 5<sup>th</sup> articles in the Bill of rights were read and no debate ensued.

The 6<sup>th</sup> article was read & largely debated and some alterations proposed, but no vote obtained in favour of the alterations.

A motion was made to erase the 6<sup>th</sup> article in order to substitute another in its stead ; on which motion the yeas & nays were called and are as follows, viz.

*Yeas.*

Mr. Humphreys  
Mr. Plummer  
Mr. Dow  
Mr. Hoyt  
Mr. Tash  
Mr. Copp  
Mr. Greeley  
Mr. Stark

*Yeas.*

Mr. Flanders  
Mr. Whipple  
Mr. Rogers  
Mr. Crawford  
Mr. Johnson  
Mr. Hutchins  
Mr. White.

*Nays.*

[P. 45.] Mr. E. Livermore  
Mr. Tinney  
Mr. Macgregore  
Mr. Blanchard  
Mr. Pickering  
Mr. Brackett  
Mr. Goss  
Mr. Leavitt  
Mr. Toppan  
Mr. Dodge  
Mr. Robinson  
Mr. Fogg  
Mr. Webster  
Mr. Wheeler  
Mr. Stow Ranney  
Mr. Rogers  
Mr. Cilley  
Mr. March  
Mr. McClarey  
Mr. Clark  
Mr. Sias  
Mr. Foster

*Nays.*

Mr. Walker  
Mr. Head  
Mr. Emerson  
Mr. Swain  
Mr. Tilton  
Mr. Calfe  
Mr. Peabody  
Mr. Davidson  
Mr. Gibson  
Mr. Waldron  
Mr. Thompson  
Mr. Rawlings  
Mr. Palmer  
Mr. How  
Mr. Waldron  
Mr. Harper  
Mr. Cogswell  
Mr. Clough  
Mr. Hooper  
Mr. Smith  
Mr. Bedee  
Mr. Hodgdon

Mr. D. Page	Mr. Whitcomb
Mr. R. Parker	Mr. Gilmore
Mr. Alld	Mr. Alexander
Mr. Barron	Mr. Temple
Mr. Chandler	Mr. Jackson
Mr. Wm. Page (G)	Mr. Rand
Mr. D. Emerson	Mr. French
Mr. Atherton	Mr. Kingsbury
Mr. Barrett	Mr. Chase
Mr. Fisk	Mr. Wilcox
Mr. P. Clark	Mr. Duncan
Mr. Cragin	Mr. Holmes
Mr. J. Smith	Mr. Wardell
Mr. Nicols	Mr. Tainter
Mr. Wallace	Mr. N. Parker
Mr. Pierce	Mr. Kimball
Mr. Warren	Mr. Livermore
Mr. Wood	Mr. Payne
Mr. Searls	Mr. Franklin
Mr. Green	Mr. Tarlton
Mr. W. Page (C)	Mr. Carlton
Mr. Prentice	Mr. Cargill.
Mr. Newcomb	

15 yeas—89 Nays. So it was negatived.  
Adjourned to 9 o'clock to-morrow morning.

Friday Sept<sup>r</sup>. 9<sup>th</sup> 1791.

Met according to adjournment.

Resolved, that the following rule be observed in regulating the proceedings in this Convention.

[P. 46.] 17<sup>th</sup>. That it be a rule in conducting business that in any stage of a Question a motion to postpone the further consideration of any matter in debate, be considered as in order, and the main question left open for future discussion.

The 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Articles were read and no debate ensued.

The 17<sup>th</sup> Article was read, and it was resolved that the following words be inserted, "in the Courts of this State," which words are to follow next after the words, "In criminal prosecutions," and that the word "Assembly" be expunged, and the word "Legislature" inserted in lieu thereof.

The 18<sup>th</sup> Article was read and no debate thereon.

The 19<sup>th</sup> Article was read and debated and motion was made to expunge all the words in said Article, after the word "possessions," which motion was committed to the con-



sideration of Mr. Peabody, Mr. Foster and Mr. Smith of Peterboro';—and that they report thereon.

[P. 47.] The 20<sup>th</sup> Article was read and objected to and it was voted to be postponed until the Judiciary System may come under consideration.

The 21<sup>st</sup>, 22<sup>d</sup>, 23<sup>d</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, 28<sup>th</sup> 29<sup>th</sup> & 30<sup>th</sup> were read and no debate ensued.

The 31<sup>st</sup> was read and debated, and motion was made to strike out the whole of said article—the determination on said motion was voted to be postponed until the Constitution comes under consideration.

The 32<sup>d</sup> Article was read and motion made to postpone the consideration thereof until the Plan of Government comes under consideration.

The 33<sup>d</sup> & 34<sup>th</sup> Articles were read but not debated.

The 35<sup>th</sup> Article was read and after some debate it was voted to be postponed until the Plan of Government comes under consideration.

The 36<sup>th</sup>, 37<sup>th</sup> & 38<sup>th</sup> Articles were read and no debate thereon.

Adjourned to 3 o'clock P. M.

Met accordingly.

The first paragraph in the Form of Government under Part 2<sup>d</sup>, was read and not debated.

Under GENERAL COURT, the first was read and not debated.

The second paragraph was read and motion was made [P. 48.] that the word "June" be struck out and the word January inserted, which was negatived. Motion was then made that the word "June" may be struck out and some other may be agreed on—but the motion was lost.

The 3<sup>d</sup> & 4<sup>th</sup> paragraphs were read but not debated.

#### Under SENATE,

The first paragraph was read and debated but no alteration took place.

The second was read and debated with respect to the number of Senators and the proportion as it now stands; which debate terminated in the following motion, "That that part of the Constitution which respects the number and proportion of Senators be referred to a Committee of one from each County;—which passed in the affirmative, and the ballots

being taken for the Committee Mr. Peabody, Mr. Cogswell, Mr. Smith of Peterboro', Mr. Page of Charlestown & Mr. Freeman were chosen to take said motion under consideration and report thereon.

The third, fourth, fifth & sixth paragraphs were read and no debate thereon.

[P. 49.] The seventh paragraph was read and motion was made that the word "majority" be struck out, and the word plurality inserted—which motion after debate, was voted to be postponed.

Adjourned to 9 o'clock to-morrow morning.

Saturday Sept<sup>r</sup>. 10<sup>th</sup>, 1791.

Met according to adjournment.

The seventh paragraph having again come under consideration, motion was made that the whole of the paragraphs under the head of Senate, be referred to the Committee appointed on the motion respecting the number and proportion of Senators, and that they report on the whole under said head.

Under the head,

"HOUSE OF REPRESENTATIVES,"

The whole was read—Then proceeded by paragraphs. On reading and considering the first paragraph under said head, motion was made that the words "One hundred & fifty" be expunged, and the words "two hundred" inserted—which motion was lost. Motion was then made that the paragraph ascertaining the number and proportion of Representatives be so altered as to lessen the number of Representatives;— [P. 50.] After some debate, the previous question was called for, and the question was put by the President, Shall the main question be now put? which passed in the negative: after which the yeas and nays were called for; but it being doubted whether it were in order to call for the yeas & nays after the matter was decided, the President requested the opinion of the Convention on the point of order; The same was determined by yeas and nays and are as follows, (viz.)

*Yeas.*  
Mr. E<sup>d</sup> Livermore  
Mr. Humphrey  
Mr. Tinney  
Mr. Macgregore

*Yeas.*  
Mr. Goss  
Mr. Robinson  
Mr. Fogg  
Mr. Stow Ranney



Mr. Plummer  
 Mr. Rogers  
 Mr. March  
 Mr. Waldron  
 Mr. Thompson  
 Mr. Chandler  
 Mr. Page (Goffstown)  
 Mr. Barrett  
 Mr. Fisk  
 Mr. Jer<sup>e</sup> Smith  
 Mr. Stark

*Nays.*

Mr. Blanchard  
 Mr. E. Pickering  
 Mr. Brackett  
 Mr. Leavitt  
 Mr. Dodge  
 Mr. Webster  
 Mr. Wheeler  
 Mr. Cilley  
 Mr. McClarey  
 Mr. Clark  
 Mr. Sias  
 Mr. Foster  
 Mr. E. Wood  
 Mr. Walker  
 Mr. Head  
 Mr. N. Emerson  
 Mr. Swain  
 Mr. Tilton  
 Mr. Calfe  
 Mr. Peabody  
 Mr. Dow  
 Mr. Davidson  
 Mr. Gibson  
 [P. 51.] Mr. Rawlings  
 Mr. Palmer  
 Mr. How  
 Mr. Waldron  
 Mr. Harper  
 Mr. Cogswell  
 Mr. Clough  
 Mr. Hooper  
 Mr. E. Smith  
 Mr. Bedee  
 Mr. Hoit  
 Mr. Hodgdon  
 Mr. Tash  
 Mr. Copp

Mr. Green  
 Mr. Page (Charles<sup>tn</sup>)  
 Mr. Prentice  
 Mr. Newcomb  
 Mr. Gilmore  
 Mr. Temple  
 Mr. Kingsbury  
 Mr. J. Duncan  
 Mr. Freeman  
 Mr. Payne  
 Mr. Franklin.

*Nays.*

Mr. R. Parker  
 Mr. Alld  
 Mr. Barron  
 Mr. D. Emerson  
 Mr. Atherton  
 Mr. Abbott  
 Mr. P. Clark  
 Mr. Cragin  
 Mr. Nichols  
 Mr. Wallace  
 Mr. Pierce  
 Mr. Warren  
 Mr. Greeley  
 Mr. A. Wood  
 Mr. Searls  
 Mr. Flanders  
 Mr. Whitcomb  
 Mr. Whipple  
 Mr. Alexander  
 Mr. Jackson  
 Mr. Rand  
 Mr. French  
 Mr. Chase  
 Mr. Wilcox  
 Mr. Holmes  
 Mr. Wardell  
 Mr. Tainter  
 Mr. N. Parker  
 Mr. Kimball  
 Mr. S. Duncan  
 Mr. Rogers  
 Mr. Crawford  
 Mr. Johnson  
 Mr. Hutchens  
 Mr. Tarlton  
 Mr. White  
 Mr. Carlton.

29 yeas, 74 nays—so it was determined to be out of order.  
 Adjourned to 3 o'clock P. M.

Met accordingly.

The first paragraph being again read, a motion was made to postpone the further consideration thereof until Monday next at 4 o'clock P. M.—passed in the affirmative. The second, third & fourth paragraphs were read & motion was made to postpone the consideration thereof until Monday next at 4 o'clock P. M. which passed in the affirmative.

The fifth paragraph was read and motion made that an alteration be made in this Article so that the election be determined by poll, if required by seven of the electors present:—which motion was lost: motion was then made that the words “Shall be of the Protestant religion,” be struck [P. 52.] out—to determine which the yeas & nays were called, and are as follows, (viz.)

<i>Yeas.</i>	<i>Yeas.</i>
Mr. Humphreys	Mr. Whipple
Mr. Tinney	Mr. Temple
Mr. Blanchard	Mr. Copp
Mr. Stow Ranney	Mr. Wilcox
Mr. Plummer	Mr. Freeman
Mr. Rogers	Mr. Payne
Mr. Foster	Mr. White
Mr. Peabody	Mr. Carlton
Mr. Hoyt	Mr. Rogers
Mr. Thompson	Mr. P. Page
Mr. Greeley	Mr. Crawford
Mr. Barrett	Mr. Johnson
Mr. Flanders	Mr. Freeman
Mr. Jer <sup>e</sup> Smith	Mr. Payne
Mr. Tash	Mr. How
Mr. Stark	Mr. Clough
Mr. Bedee	Mr. Bedee ? (1)
Mr. Page, (C)	Mr. Hooper.

33 yeas—51 nays—so it was negatived.

[NOTE. The names of the *nays* are not entered; and the *yeas*, as recorded, are 35 instead of 33.—ED.]

Adjourned to Monday next at 10 o'clock, A. M.

[P. 53.] Monday, Sept. 12<sup>th</sup>, 1791.

Met according to adjournment.

The sixth paragraph was read and the following introduced in its stead.

“The members of both Houses of the Legislature shall be compensated for their service out of the public Treasury

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(1) This name appears twice.—ED.



by a Law made for that purpose. All vacancies may be filled up at any time as occasion may require."

The 7<sup>th</sup> paragraph was read but not debated.

The 8<sup>th</sup> was read and some debate ensued but no alteration made.

The 9<sup>th</sup>, 10<sup>th</sup>, & 11<sup>th</sup> paragraphs were read & no debate ensued.

The 12<sup>th</sup> paragraph was read and motion made to make the following addition: "The House of Representatives shall be the Judge of the returns, elections and qualifications of its own members as pointed out in the Constitution"—which passed in the affirmative.

The 13<sup>th</sup> paragraph was read and motion made to strike out the following words—"The Journals of the proceedings of both Houses of the General Court shall be printed and published immediately after every adjournment or prorogation:"—After some debate the motion was referred to Mr. [P. 54.] Peabody, Mr. Thompson and Mr. Payne, who are to report their opinion thereon.

Motion was then made that the last clause of said paragraph be expunged, which consists of the following words: "And upon motion made by any one member, the yeas & nays upon any question shall be taken & entered in the Journals:" after some debate the motion was withdrawn.

Motion was then made that said last clause be altered to read in the following manner:—"And upon motion made by any one member and seconded by another, the yeas and nays upon any question shall be taken and entered in the Journals"—which motion was determined in the negative by yeas and nays, which were as follows:

[The names are not entered.—ED.]

[P. 55.] 19 yeas, 62 Nays. (1)

## EXECUTIVE POWER.

Under the head of PRESIDENT.

The first paragraph was read and voted that the stile of the Supreme Magistrate be altered from "the President of the State of New Hampshire," to "the Governor of the State of New Hampshire."

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(1) Persons who are curious to learn the names of those who voted yea or nay, may consult the marks *y* or *n* as entered against the name of each member on a specified day, as seen in the list of members on pp. 2-33.—ED.

The second & third paragraphs were read and the consideration thereof postponed by vote until the afternoon.

The fourth paragraph was read and motion was made to expunge said paragraph, and after some debate passed in the affirmative;—the yeas and nays on the determination were as follows, (viz.)

[Names are not entered.—ED.]

[P. 56.] 65 yeas—14 Nays.

Adjourned to 3 o'clock P. M.

Met accordingly.

The fifth & sixth, seventh & eighth paragraphs under said head were read and no debate ensued.

The ninth paragraph was read and motion was made that the following be inserted in lieu thereof:—“that all Judicial Officers, the Attorney General, Solicitors, all sheriffs, coroners, registers of probate, and all officers of the Navy and [P. 57.] general and field officers of the militia, shall be nominated by the Governor and by and with the advice and consent of the Council, shall be appointed by him, and every such nomination shall be made at least seven days prior to such appointment and no appointment shall take place unless three of the Council agree thereto. The Captains & subalterns in the respective regiments shall be nominated and recommended by the field Officers to the Governor, who is to issue their Commissions immediately on receipt of such recommendation.

Resumed the consideration of the first paragraph under the head of House of Representatives, [see marg. pp. 49-51] which was postponed on Saturday last to this time, and motion was made in the following words: “That there shall be in the Legislature of this State a House of Representatives consisting of sixty persons who shall be the second branch of the Legislature and annually elected by the people: That such representation may be as equal as circumstances will admit, the General Court shall divide the State into sixty districts making such division by the number of rateable polls as equal as may be so as not to divide towns & unincorporated places, and timely to make known to the Inhabitants [P. 58.] of the State the limits of each district; That each district shall be entitled to send one representative; that the member of the House of Representatives shall be annually elected on the first Monday of March; That every male



inhabitant of each town in the District to which he belongs of twenty one years & upwards, paying for himself a poll Tax shall have a right at said meeting to be duly warned & holden annually forever on said first Monday of March, to vote in the town wherein he dwells for the representative of the district whereof he is a member, and after the Inhabitants of the towns have voted the meetings shall be adjourned to the third Monday of March; That on the second Monday of March the several Town clerks of each district shall meet at some convenient central place in the district with copies of the record of the proceedings of said town meetings to examine and count the votes, and if upon examination it shall appear to said Town clerks that any one has a majority of the votes, they shall declare him chosen and a certificate of his choice signed by the major part of said clerks shall be [P. 59.] deemed sufficient evidence of his election; but in case no one person has a majority of votes the said clerks shall return to the several Towns in the district the two persons having the highest number of votes, and on the third Monday of March the inhabitants of the said Towns shall elect one of the candidates to represent said district: The said Town clerks of the district shall meet again on the fourth Monday of March at the place of their first meeting with a copy of the record of the last meeting, and sort, count and examine the votes and declare who is elected representative of the district, and a certificate signed by the major part of said clerks shall be the proper evidence of such Representative's election.\*

[P. 60.] After some debate, a division of the motion was called for and the yeas and nays required on the first clause in said motion, namely—"There shall be in the Legislature of this State, a House of Representatives consisting of sixty persons who shall be the second branch of the Legislature, and annually elected by the people."

The yeas & nays being taken were as follows, viz.†

22 yeas—73 nays, so it was negatived.

[P. 61.] Motion was then made to strike out the words "one hundred and fifty," in order to insert a larger number: to determine which the yeas and nays were called and are as follows (viz.)

[P. 62.] 31 yeas—70 nays. So it was negatived.

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\* This motion was made by William Plumer.—*Marg.*

† Names are not in any case entered.—*ED.*

Motion was then made that the words "if four hundred and fifty rateable polls," be erased and the words "three hundred" be inserted instead thereof: And the words, "making three hundred such polls the mean increasing number for every additional representative," be also erased:—on which motion the yeas and nays were called for and were as follows, (viz.)

[P. 63.] 21 yeas—77 Nays. So it passed in the negative.

Adjourned to 8 o'clock to-morrow morning.

Tuesday, Sept. 13<sup>th</sup>, 1791.

Met according to adjournment.

The second, third & fourth paragraphs under the head of House of Representatives were resumed, read & considered, but no alteration made.

Proceeded to tenth paragraph under the head President.

The 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup>, & 17<sup>th</sup> paragraphs were read and no debate ensued.

[P. 64.] The 18<sup>th</sup> paragraph was read and postponed until the committee report, who were chosen to report respecting senators.

Under the head "COUNCIL"

The first paragraph was read and after some debate, voted to postpone the whole under the head Council, until it shall be determined in what manner the Senate shall be appointed.

Under the head,

"SECRETARY, TREASURER, COMMISSARY GEN<sup>l</sup>." &c.

the first & second paragraphs were read & no debate ensued.

Under the head

"COUNTY TREASURER," &c.

The paragraph was read and after some debate, voted, That the following be inserted instead thereof: "The County Treasurer and register of Deeds shall be elected annually by the Inhabitants of the several Towns in the several Counties in this State according to the method now practised; But the Legislature may alter the present Laws & method of collecting the votes, and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give

[P. 65.]



bond with sufficient sureties in a Reasonable sum for the use of the County for the punctual performance of their respective trusts."

The committee chosen to report upon several paragraphs under the head "Senate" reported in favour of several amendments or alterations, as follows:—

1<sup>st</sup> "The Senate shall choose one of their own members President of the Senate"—which was read and considered, received and accepted.

2<sup>d</sup>. "The Legislature shall divide the State into twelve districts having respect to the proportion of public taxes as nearly equal as may be without dividing Towns or places, and each district shall choose one."

Upon reading the 2<sup>d</sup> paragraph above mentioned, motion was made to strike out the word "twelve," and insert the word "fifteen," which motion was determined by yeas and nays and were as follows:—

[P. 66.] 18 Yeas, 81 Nays. So it was negatived.

Motion was then made to strike out the word "twelve" and insert the word "thirteen," which passed in the affirmative—and the paragraph thus amended was rec<sup>d</sup> & accepted.

3<sup>d</sup> "The 2<sup>d</sup> section under the head of Senate to be expunged"—which passed in the affirmative.

4<sup>th</sup> "Meetings for the choice of Senators to be holden on the 1<sup>st</sup> Tuesday of March & adjourned to the third Tuesday of the same month," which was read and debated, and the following voted to be inserted in its stead:—The Inhabi-  
[P. 67.] tants of the several towns and places in this State shall give in their votes for Senators at their annual meetings in the month of March.

5<sup>th</sup>. "Meetings for the choice of Senators to be holden, governed and the proceedings certified as the Law directs in other cases"—which passed in the affirmative.

6<sup>th</sup>. "The votes to be returned to persons appointed by the Legislature in each district who are to count them, and in case of no choice return the two highest to the several towns and places in such district; one of whom at the adjourned meeting to be elected."

Which 6<sup>th</sup> article in the report was divided and the first part thereof accepted, namely, "The votes to be returned to persons appointed by the Legislature in each district who are to count them."

Motion was then made that the remainder of the sixth article reported, be struck out, "and in case &c." and the following words inserted: "And the person having the highest number of votes in each district shall be declared duly chosen and the choice shall be certified by the persons who examine the votes."

To determine which the yeas and nays were called, and are as follows:—viz.

[P. 68.] 57 yeas, 41 nays. So it passed in the affirmative.

7<sup>th</sup>. "The qualification of a Senator as to estate shall be *five hundred pounds*," which was debated and motion made that "five hundred" be struck out, and "two hundred" inserted, which passed in the affirmative; and the paragraph accepted with the amendment.

[P. 69.] 8<sup>th</sup> "Vacancies shall be filled up by the district in which the same may happen in the same manner: the governor appointing the time of holding the meetings:" which was read and considered, rec<sup>d</sup> & accepted.

9<sup>th</sup> "When the Senate sit on the trial of impeachments, they may adjourn themselves to any time and place, though the Legislature be not then & there assembled:"—which was read and consider'd received and accepted.

Adjourned to 3 o'clock, P. M. Met accordingly.

Under the head, "JUDICIARY POWER,"

The whole was read and no debate ensued.

Under the head, "CLERKS OF COURTS,"

The paragraph was read and no debate thereon.

Under the head, "DELEGATES TO CONGRESS,"

The whole was read, and voted that it be expunged.

Under the head, "ENCOURAGEMENT of Literature,"

The Paragraph was read but not debated.

Under the head, "OATHS & SUBSCRIPTIONS," &c.

the first paragraph was read containing form of Oaths &c. motion was made, the form of Oath called the Oath of [P. 70.] allegiance be struck out in order to introduce some other form instead thereof:—which passed in the affirmative:—where upon Voted that the following form be inserted:



“I, A. B. do solemnly swear that I will bear faith and true allegiance to the State of New Hampshire, and will support the Constitution thereof.

*So help me God.”*

Voted that the following proviso be inserted, namely: “Provided also, that when any person chosen to any of the offices aforesaid shall have already taken & subscribed this Oath or affirmation of Allegiance and the same shall be on record or on file in the Secretary’s office, it shall not be necessary for him to take it again on his being chosen.”

The second and third paragraphs were read and no debate thereon.

The fourth paragraph was read, and it was voted to strike out the whole of the paragraph excepting the following words: “all writs issuing out of the Clerks office in any of the Courts of Law shall be in the name of the State of New Hampshire.”

[P. 71.] The 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, & 10<sup>th</sup> paragraphs were read and not debated.

The eleventh paragraph was read and after some debate the following alterations were voted, That the words “members of Congress or any person holding an office under the United States shall hold the office of Governor or”—which words are to be inserted between the word “naval officers” and the words, “shall at the same time” &c.

The following motion was made, “That attorneys that practise at the Bar be exempted from holding a seat in the Senate or House of Representatives,” on which motion the yeas & nays were called and are as follows:

[P. 72.] 15 yeas—79 Nays. So the motion was lost.

Motion was then made that no member of the General Court shall take fees, be of Council or act as advocate in any cause before either branch of the Legislature; and upon due proof thereof, such member shall forfeit his seat in the Legislature;—which passed in the affirmative.\*

The remaining paragraphs were read and no debate thereon.

Voted, That Mr. Plummer, Mr. Smith & Mr. Payne be a Committee to reduce to form the proposed amendments and report thereon.

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\* This motion was made by William Plumer.—*Marg.*

[P. 73.] Voted That Mr. Newcomb, Mr. Humphreys and Mr. Atherton be a Committee to take under consideration the several paragraphs under the head "COUNCIL," and report thereon.

Adjourned to 9 o'clock to-morrow morning.

Wednesday, Sept<sup>r</sup> 14, 1791. Met according to adjournment.

The Committee to consider of that article in the Constitution which directs that the Journals of both Houses of the General Court be printed immediately after every adjournment &c. Reported, "That said article ought to be expunged." Upon reading and considering said report, motion was made to accept the same—on which motion the yeas and nays were called, and are as follows :

[P. 74.] 37 yeas, 58 Nays. So it was rejected.

Voted That Mr. Walker, Mr. Peabody & Mr. Cogswell be a Committee to take under consideration and report such directions respecting printing the Journals of the proceedings of both Houses of the General Court as they may judge proper.

Adjourned to 3 o'clock P. M. Met accordingly.

The Committee to consider the 19<sup>th</sup> article in the Bill of rights [see marg. p. 46] &c. Reported, That after the first [P. 75.] period, it be altered so as to read thus (viz.) "Therefore all warrants to search suspected places or to arrest a person for examination or trial in prosecution for criminal matters, are contrary to this right" if the cause &c. then proceed as it now stands in said 19<sup>th</sup> article: Which report being read and considered, Voted that it be received and accepted.

The Committee to consider that part of the Constitution which respects printing and publishing the proceedings of both Houses of the Legislature, [see marg. p. 74] Reported: "That the Journal or Register of said proceedings to be published contain all acts and Resolves passed and all votes for raising, granting or appropriating public monies;—A brief statement of facts with the prayers contained in any Petition, by whom offered, & the proceedings thereon; Every motion acted upon & by whom made & seconded; an account of all Committees chosen with their reports and proceedings thereon; and the yeas & nays upon all acts & Laws."



Upon reading and considering the foregoing report, motion was made to divide the same in the following manner: [P. 76.] “That the journal or Register of said proceeding to be published contain all Acts & Resolves passed, and all votes for raising, granting or appropriating public monies,”—be first put to vote: which vote obtained, and the report thus far received and accepted.

Motion was then made that the remaining part of said Report be accepted, namely “a brief statement” &c. on which motion the yeas & nays were called and are as follows:

38 yeas—64 nays. So it was negatived.

[P. 77.] Adjourned to 9 o'clock to-morrow morning.

Thursday, Sept<sup>r</sup> 15<sup>th</sup>, 1791. Met according to adjournment.

The Committee appointed to take into consideration the method of appointing the Council &c. [see marg. p. 73] Reported:—which report after some small alterations made in Convention stands in the following words, viz.

“That there be annually chosen by ballot by the Inhabitants of this State qualified to vote for Senators, five Counsellors for advising the Governor in the executive part of the Government, one of whom shall be voted for and chosen in each County by the Inhabitants within the same qualified as aforesaid, on the day for the election of Senators; and the number of votes shall be returned in the manner provided for returning votes for the Governor to the Secretary of the State, and shall be sorted and counted by the Secretary and the Treasurer until the Legislature shall order otherwise; and the person having the highest number of votes in each County shall be considered as duly elected a Counsellor: *Provided* he be an Inhabitant of the County for which he is chosen, be of thirty years of age and have an [P. 78.] estate of the value of five hundred pounds within this State, three hundred of which at least shall be freehold: But in case two or more persons shall have an equal number of votes, the Secretary and Treasurer or such other persons as the Legislature may appoint, shall draw one of them by lot, who shall be considered as duly chosen, and the Secretary shall seventeen days before the first Wednesday in June, give notice of the choice to the persons elected. *Provided* however, that if any person thus chosen a Counsellor shall also be chosen a member of either branch of the Legislature for the same year and shall accept the trust, his

Election as a Counsellor shall be void. And, in such case, as also when any person chosen to that office shall refuse to accept the same; and in case of the death of any Counsellor, the Governor shall issue a precept for the Election of a new Counsellor in that County, wherein such vacancy shall happen, which choice shall be in the manner before pre-[P. 79.] scribed: And if any new County shall be hereafter erected, a Counsellor may and shall be chosen therein in the same manner.

“And the Governor shall have full power and authority to convene the members of the Council from time to time at his discretion and with them or the majority of them, at least, may and shall hold a Council for ordering and directing the affairs of the State.

“The resolutions and advice of the Council shall be recorded by the Secretary and signed by all the members present agreeing thereto, and this record may be called for at any time by either branch of the Legislature, and any member of the Council may enter his opinion contrary to the resolution of the majority, with the reasons of such opinion.”

Which was read and considered, rec<sup>d</sup> & accepted.

*Resolved*, That for the more effectually preserving the proper separation of the three great powers of Government agreeably to the 37<sup>th</sup> Article in the Bill of Rights, the power of hearing and deciding in causes of equity ought to be vested either in some Judicial Court or Courts, or in some [P. 80.] Court or Courts to be established and impowered specially for that purpose, Provided that no power shall be granted to said Courts incompatible with the principles contained in the Bill of Rights and Constitution; but the jurisdiction & power of said Courts ought to be limited and defined by express Laws.

On which Resolve the yeas & nays were called and are as follows, (viz.)

72 Yeas—26 Nays. So it passed in the affirmative.

[P. 81.] Adjourned to 3 o'clock P. M. Met accordingly.

*Resolved* That there shall be one Supreme Judicial Court of Law who shall have original jurisdiction of all causes where the sum exceeds four pounds, and appellate jurisdiction in other cases to be provided by Law.



On which Resolve the yeas and nays were called, and are as follows:

61 Yeas—34 Nays. So it passed in the affirmative.

[P. 82.] Resolved, That the several Justices of the Peace in their respective Counties shall have jurisdiction in all causes where the sum is under four pounds, except causes where title of Land is drawn in question: On which Resolve the yeas and nays were called, and are as follows—viz.

63 yeas—35 nays. So it passed in the affirmative. Mr. Foster requested to be excused from giving his vote, offering for a reason that he was a Justice of the Peace, and [P. 83.] felt himself interested in the determination; but the Convention would not excuse him.

Resolved, That it shall be the duty of the Legislature to abolish the Inferior Courts of Common Pleas; on which Resolve the yeas and nays were called and are as follows:

55 Yeas—31 Nays. So it passed in the affirmative.

[P. 84.] Resolved, That it be the duty of the Legislature to abolish the Courts of General Sessions of the Peace: On which Resolve the yeas and nays were called, and are as follows, viz.

37 yeas—50 nays. So it passed in the negative.

Adjourned to 9 o'clock to-morrow morning.

[P. 85.] Friday, Sept<sup>r</sup> 16<sup>th</sup>, 1791.

Met according to adjournment.

Sundry matters were debated.

Adjourned to 3 o'clock P. M. Met accordingly.

Voted, That Mr. Peabody, Mr. Plummer, Mr. Hoit, Mr. Smith (Meridith) Mr. Wallace, Mr. Atherton, Mr. Page (Charlestown) Mr. Kingsbury, Mr. Payne & Mr. Freeman, be a committee to take into consideration the Constitution and the Resolutions passed at this session, and the several motions for alterations that have not been acted upon, and prepare and report to the Convention at the adjournment, alterations and amendments to be submitted to the people.

Mr. Greeley's motion, Mr. Humphrey's 2 motions, Mr. Tinney's two motions, Mr. Kimball's Do. Mr. Rogers's Do. Mr. Plummer's five motions, Maj<sup>r</sup> Stark's motion, Mr. Newcomb's 2 Do. Gen. Peabody's & Mr. Waldron's motions were referr<sup>d</sup> to the above-named Committee.

Adjourned to the second Wednesday of February next at 10 o'clock, then to meet at Concord.













List of Members—continued.

Names of Representatives.	No. of miles Travelled [not repeated].												The names of towns and places represented are not repeated in the journal. Ed.																
	Wed. 8th, 1792.	Thurs. 9th	Friday, 10th	Saturday, 11th	Sunday, 12th	Monday, 13th	Tuesday, 14th	Wednesday, 15th	Thursday, 16th	Friday, 17th	Saturday, 18th	Sunday, 19th		Monday, 20th	Tuesday, 21st	Wednesday, 22d	Thursday, 23d	Friday, 24th	Saturday, 25th	Wednesday, May 30th, 1792.	Thursday, 31st	Friday, June 1st	Saturday, 2d	Sunday, 3d	Monday, 4th				
Samuel Duncan, Esq <sup>r</sup> .	n	ni	i	yi	ni	i	yi	ni	ni	i	ni	i	ni	ni	i	ni	i	ni	ni	i	ni	i	ni	i	ni	i		1	49 yeas 50 nays
Sam <sup>l</sup> . Livermore, Esq <sup>r</sup> .	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		2	44 yeas 45 nays
Doct <sup>r</sup> John Rogers	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		3	48 yeas 54 nays
Thomas Crawford, Esq <sup>r</sup> .	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		4	56 yeas 39 nays
Jesse Johnson, Esq <sup>r</sup> .	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		5	64 yeas 34 nays
Jonathan Freeman, Esq <sup>r</sup> .	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		6	56 yeas 45 nays
Elisha Payne, Esq <sup>r</sup> .	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		7	47 yeas 52 nays
Capt. Jon <sup>a</sup> Franklin	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		8	50 yeas 46 nays
Col <sup>o</sup> Joseph Hutchins	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		9	46 yeas 49 nays
William Tarlton, Esq <sup>r</sup> .	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		10	19 yeas 79 nays
Capt. Nath <sup>l</sup> White	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		11	57 yeas 35 nays
Capt. Peter Carlton	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni		[12]	34 yeas 62 nays
Mr. Wm. Cargill	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni	ni			

[NOTE. The following minute of yeas and nays is found on the margin of this record.—ED.]

32, 33.]



[P. 87.]            Wednesday, Feb<sup>y</sup> 8<sup>th</sup>, 1792.

Several members of Convention met agreeably to adjournment ; but there not being a quorum, and the President being absent (the Honb<sup>l</sup> Judge Walker in the chair) they agreed to adjourn to 3 o'clock, P. M.

Met according to adjournment, and there being a quorum, and the Honb<sup>l</sup> the President being absent out of the State, motion was made for the choice of a President Pro Tempore, and the ballots being taken the Honb<sup>l</sup> John Pickering Esq<sup>r</sup>. was unanimously chosen.

Adjourned to 9 o'clock to-morrow morning.

Thursday Feb<sup>y</sup> 9<sup>th</sup>, 1792, the Convention met according to adjournment.

The Committee chosen in September last to take into consideration the Constitution and the Resolutions passed at that session and the several motions for alterations [see marg. p. 85] Reported their opinion as to alterations and their Reasons therefor ; also the Constitution with the proposed alterations incorporated which Reports being read, Motion was made to postpone the consideration of said Reports until the afternoon—which motion prevailed.

[P. 88.] Adjourned to 3 o'clock, P. M. Met accordingly.

[NOTE. The editor, with advice, has judged it expedient here to insert full, first, *The alterations and amendments proposed by the abovesaid committee* ; and second, *The constitution with said alterations and amendments incorporated*. The journal, which subsequently follows, will show definitely the action which the convention took upon both the said reports.—ED.]

## I. REPORT OF THE COMMITTEE ON ALTERATIONS AND AMENDMENTS.

[See MS. Journal, pp. 243-274.]

### BILL OF RIGHTS.

#### Article XIX.

Every citizen hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions : Therefore all Warrants to search suspected places or arrest a person for examination or trial in prosecutions for criminal matters, 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 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 Law.

Article XX.

In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used & practised, the parties have a right to trial by 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, and also in actions where the sum demanded in damages shall not exceed twenty shillings, the Legislature shall think it necessary hereafter to alter it.

Article XXXIX.

Beasts of the Plough, not exceeding a yoke of oxen or a horse, Instruments of husbandry, and the necessary Tools of a man's Trade, shall not be liable to be distrained, attached, or taken in execution for debt; unless by the person who furnished them.

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PART SECOND.

THE GENERAL COURT.

Paragraph 2.

The Senate and House shall assemble every year on the third Wednesday of *September* and at such other times as they may judge necessary and shall dissolve and be dissolved seven days next preceding the said third Wednesday of September; and shall be *stiled*, THE GENERAL COURT OF NEW HAMPSHIRE.

Every Bill which shall have passed both Houses, shall, before it become a Law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it: if, after such reconsideration, four sevenths of that House shall agree to pass the Bill, it shall be sent, together with such objections, to the other House, by which it shall likewise be reconsidered; and if approved by a majority of that House, it shall become a Law: But in all such cases, the Votes of both Houses shall be determined by yeas & nays, and the names of the persons voting for or ag<sup>st</sup> the Bill shall be entered on the Journal of each house. If any Bill shall not be returned by the Gov<sup>r</sup>. within five days (Sundays excepted) after it shall have been presented to him, the same shall be a Law in like manner as if he had signed it: unless the Legislature by their adjournment, prevent its return; in which case it shall not be a law.

Every Resolve shall be presented to the Gov<sup>r</sup>. and before the same shall take effect, shall be approved by him; or being disapproved by him, shall be repassed by the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

No member of the General Court shall take fees, be of Counsel, or act as advocate in any cause before either branch of the Legislature;



and upon due proof thereof, such member shall forfeit his seat in the Legislature.

All persons who behave decently, shall have liberty of admission to hear the Debates and proceedings of both Houses of the Legislature; except when the welfare of the State shall require secrecy.

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SENATE.

The Senate shall consist of twelve Members, who shall hold their office for *two years* next ensuing their election.

And that the State may be equally represented in the Senate, the Legislature shall from time to time divide the State into twelve Districts, as nearly equal as may be, without dividing towns and unincorporated places; and in making this division, they shall govern themselves by the proportion of public taxes paid by the said District; and timely make known to the Inhabitants of the State, the limits of each District.

The freeholders and other Inhabitants of each District qualified as in this Constitution is provided, shall *biennially* give in their votes for a senator at some meeting holden in the month of March.

The Senate shall be the first Branch of the Legislature; and the Senators shall be chosen in the following manner:—Every male inhabitant of each Town & parish with town privileges in this State, of twenty-one years of age and upwards, paying for himself, or liable to pay, a poll tax or the amount thereof, shall have a right at the annual or other meetings of the inhabitants of s<sup>d</sup> towns and parishes, to be duly warned and holden every second year in the month of March, to vote for a senator in the District whereof he is a member;—and every person qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in that town, parish or plantation where he dwelleth & hath his home.

The Legislature when they divide the State into Districts, and as often as they shall think necessary, shall appoint some suitable persons as counters in each District, who shall meet on the Thursday next following the Second Wednesday of April every year in which there are meetings held in the District for the election of a Senator, and the General Court shall appoint the place of their meeting, and it shall be the duty of said counters, until others are appointed in their room, to receive, examine and count the votes for Senators, and make a proper record thereof, certify the choice, and seasonably deposit the returns from the several Towns, parishes & places, and the record of their proceedings in the Secretary's office.

The meetings for the choice of Senators, and all governmental officers shall be warned by Warrant from the selectmen, and governed by a Moderator, who shall preside at such meetings impartially, and receive the votes of all the inhabitants of such towns & parishes present and qualified to vote for Senators, and shall sort and count the same in the meeting, and in presence of the Town Clerk, who shall make a fair

record in open meeting of the name of every person voted for, and the number of votes against his name; and a fair copy of this record shall be attested by the Town Clerk, and shall be sealed up and directed to the counters of the District with a Superscription expressing the purport thereof, and delivered by the s<sup>d</sup> clerk to the counters of the District in which such town or parish is, on or before the Second Wednesday of April next following such Town Meeting;

*Provided nevertheless*, that no person shall be capable of being elected a Senator, who is not seized of a freehold estate in his own right of the value of *two hundred pounds* lying within this State, who is not of the age of thirty years, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time thereof, he shall be an inhabitant of the District for which he is chosen.

And the inhabitants of plantations & places unincorporated, qualified as this Constitution provides, who are or shall be required to assess taxes upon themselves towards the support of Government, or shall be taxed therefor, shall have the same privilege of voting for senators in the plantations & places where they reside, as the inhabitants of the several respective towns and parishes afores<sup>d</sup> have; and the meetings of such plantations & places for that purpose, shall be holden every second year in the month of March, at such places respectively therein, as the assessors thereof shall direct, &c.

In case it [there] shall not appear by the Returns of the counters to be a senator elected by a majority of votes for any District, the counters of that District shall take the names of the two persons who shall have the highest number of votes, and the number of votes that each of them shall have, & certify and deliver the same to the Selectmen of each town & parish in such District, and to the Assessors of unincorporated places, within eight days after the counting thereof; and it shall be the duty of the s<sup>d</sup> Selectmen & Assessors respectively, to warn a meeting of the inhabitants qualified to vote for senators, to be held within fifteen days after the expiration of s<sup>d</sup> eight days, giving at least twelve days notice, to elect one person out of the two returned as afores<sup>d</sup> to be senator for the District, and the several town clerks & assessors in s<sup>d</sup> Districts, shall within eight days after the expiration of said fifteen days, return a fair attested copy of the Record of the number of Votes in the Towns, parishes and places in the Districts, to the counters of said Districts, and the counters shall on the ninth or tenth day after the expiration of s<sup>d</sup> fifteen days, meet and as soon as may be, sort & count the votes, declare the choice, and notify the person elected: And in case it shall so happen that two or more persons having the highest number of votes, shall have an equal number, the counters shall by lot determine which of them shall be sent to the people; And if it should so happen that from the returns from the meetings held to compleat the elections, that the two persons voted for should have an equal number of votes, the counters shall by lot determine which of them shall be senator for such District, and notify him accordingly.

All vacancies that may happen in the Senate, shall, from time to time be filled up in the same way & manner as the first elections are directed to be made;—the Gov<sup>r</sup>. appointing the time for holding the meetings for that purpose.



The Senate shall have power to adjourn, &c. *Provided nevertheless*, that whenever they shall sit on the trial of any Impeachment, they may adjourn to such time and place as they may think proper, altho' the Legislature be not assembled on such day or at such place.

Every officer whilst under Impeachment shall be suspended from the exercise of the duties of his office; but the trial shall be as speedy as the nature of the case will admit.

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#### HOUSE OF REPRESENTATIVES.

After the first Paragraph.—

*Provided nevertheless*, That whenever the number of Members of the House of Representatives shall exceed one hundred and ten, it shall be the duty of the Legislature to make such arrangements as that the members shall not exceed at any time that number, nor shall the Towns and Districts intituled to send Representatives at any time, be less than eighty.

The members of both Houses of the Legislature shall be compensated for their services out of the Treasury of the State, by a Law made for that purpose—such members attending seasonably, and not departing without license.

And any member of the Senate, House of Representatives, or Council, shall have a right, on motion made for that purpose at the time, to have his protest or dissent, with the reasons against any vote, resolve or bill passed, entered on the Journals.

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#### EXECUTIVE POWER.

##### GOVERNOR.

The word "President" shall be struck out, and Governor inserted in all the sections where President is named.

Fourth Section shall be struck out.

All Judicial officers, the Attorney Gen<sup>l</sup>., Solicitors, all sheriffs, coroners, registers of probate, and all officers of the Navy, and general and field officers of the militia, shall be nominated and appointed by the Gov<sup>r</sup>. & Council; and every such nomination shall be made at least three days prior to such appointment;—and no appointment shall take place unless a majority of the Council agree thereto.

The Gov<sup>r</sup>. & Council shall have a negative on each other, both in the nominations & appointments.

The yeas and nays both of the Gov<sup>r</sup> & Council present, on all nominations & appointments, shall be entered on the Journals of the Council.

The Captains and subalterns in the respective Regiments, shall be nominated by the Field officers, and if approved by the Gov<sup>r</sup>., shall be appointed by him.

## LIEUTENANT GOVERNOR.

There shall be annually elected in the month of March, a Lieut. Gov<sup>r</sup>. whose title shall be HIS HONOR;—and who shall be qualified in point of property, residence, and elected, in the same manner as the Governor is.

The qualifications of the electors shall be the same as those required by this Constitution for the electors of Senators.

The Lieut<sup>t</sup> Governor, when the Governor is in the Chair, shall be President of the Senate and have a casting vote in case of a tie.

Whenever the Chair of the Governor shall be vacant by reason of his death, absence from the state, or otherwise, the Lieut<sup>t</sup> Gov<sup>r</sup>. shall, during such vacancy, have and exercise all the powers and authorities which by this Constitution the Gov<sup>r</sup>. is vested with, when personally present.

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 COUNCIL.

There shall be annually elected by ballot five Councillors for advising the Gov<sup>r</sup>. in the Executive part of Government.

The freeholders and other inhabitants in each County, qualified to vote for senators, shall some time in the month of March, give in their votes for one Councillor; and the number of votes for Councillors shall be returned to the Secretary of the State in like manner as the votes for Governor, and the Secretary and Treasurer of the State shall, until the Legislature shall appoint other persons for that purpose, sort and count the votes, make a record thereof, and certify the choice; which record, and the returns from the several Towns, parishes and places, shall be deposited in the Secretary's office;—and the person having a majority of votes in any County, shall be considered as duly elected a Councillor; but if no person shall have a majority of votes in any County, the Senate & House of Representatives shall take the names of the two persons who have the highest number of votes in each County, and not elected, and out of them two, shall elect by joint ballots, the Councillor wanting for such County: *Provided nevertheless*, That no person shall be capable of being elected a Councillor, who has not an estate of the value of five hundred pounds within this State, three hundred pounds of which or more shall be a freehold in his own right; and who is not thirty years of age, and who shall not have been an inhabitant of this State for seven years immediately preceding his election; and at the time of his election an inhabitant of the County in which he is elected.

The Secretary shall annually, seventeen days before the third Wednesday of September, give notice of the choice to the person elected.

If any Councillor shall be elected Governor or Lieut<sup>t</sup> Gov<sup>r</sup>. or member of either branch of the Legislature, and shall accept the trust; or if any person elected as a Councillor shall refuse to accept the office, or in case of the death, resignation, or removal of any Councillor out of the State; the Gov<sup>r</sup>. may issue a precept for the election of a new



Councillor in that County where such vacancies shall happen;—and the choice shall be in the same manner before described.

If any new County shall hereafter be made in this State, a Councillor shall be chosen therein in the same manner as before directed.

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COUNTY TREASURERS.

*Provided nevertheless*, the Legislature shall have authority to alter the mode of electing these officers, but not so as to deprive the people of the right [they] now have of electing them; and also to divide the several Counties into as many Districts for registering of Deeds, as to them shall appear necessary;—and the inhabitants of each District to elect a Register.

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JUDICIAL POWER.

The Judicial Power of the State shall be vested in a Supreme Court of Judicature, except as is hereafter provided:—This Court shall consist of one Chief Justice & not more than nine nor less than six associates Justices. The Supreme Judicial Court shall be, and they hereby are fully authorized & empowered to grant new trials and restorations to law in all cases where it shall to them appear reasonable.

The power of hearing & determining causes in Equity, shall, by the Legislature, be vested in the Supreme Judicial Court;—which power shall be limited & defined by law; and no suit in Equity shall be sustained, where adequate justice may be had in the Courts of Law.

There shall be a Court erected in each County, to be called the *County Court*, to consist of one Chief Justice and not more than six, nor less than four Associate Justices, who shall have all the jurisdiction, civil & criminal, and all the powers and authorities that now appertain to the Courts of General Sessions of the peace; and such other matters as the Legislature may constitutionally assign them—the trying of civil suits excepted: and except the raising County taxes;—which taxes shall be granted by the Representatives of each County in such manner as the Legislature shall direct: *Provided nevertheless*, That the Legislature shall have authority to make such other regulations by Law, as shall be necessary for the appropriation of county taxes.

Appeals shall be granted from s<sup>d</sup> County Court to the Supreme Judicial Court, as they are now allowed from the Court of General Sessions of the peace to the Superior Court; or in such cases & manner as the Legislature may by Law establish.

Justices of the peace shall have the power of hearing and determining all actions wherein the damage demanded does not exceed four pounds, except those wherein the title to things real may be drawn in question;—an appeal being allowed in civil actions to the Supreme Judicial Court, and in criminal matters, to the County Courts, in such cases and manner as the Legislature shall by Law establish.

No person shall hold the office of Judge of any Court, or sheriff of any County, after he has arrived at the age of 65 years.

No Judge of any Court or Justice of the peace shall act as attorney or be of counsel to any party, or originate any civil suit in matters that shall come before him as judge or justice of the peace.

No Judge or Register of Probate of Wills &c. shall be of counsel, act as advocate, or receive any fees as advocate or counsellor in any Probate business that is pending or that may be brought into any Court of Probate in the County of which he is judge or register.

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OATH.

I, A. B., do solemnly swear that I will bear faith and true allegiance to the State of New Hampshire, and will support the Constitution thereof:—  
*So help me God.*

Any person having taken & subscribed the oath of allegiance, and the same being filed in the Secretary's office, he shall not be obliged to take said oath again.

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No new Town or parish shall be formed in whole or in part, out of any town or parish, without the consent of a major part of the qualified voters of such town or parish out of which they are so formed, voting upon the question at a legal meeting for that purpose.

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The Legislature, whenever two thirds of both Houses shall deem it necessary, shall propose amendments, or on the application of a majority of the incorporated towns and parishes within this State, shall call a Convention for preparing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when approved of by a majority of qualified voters present and voting in town meetings on the question.

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The Secretary of the State shall at all times have a Deputy, to be by him appointed, for whose conduct in office he shall be responsible:— and in case of the death, removal, or inability of the Secretary, his deputy shall have & exercise all the duties of the office of Secretary untill another shall be appointed.

The Secretary before he enters upon the business of his office, shall give bond, with sufficient sureties in a reasonable sum, for the use of the State, for the punctual performance of his trust, as the Legislature shall direct.

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To the end that there may be no failure of justice or danger to this State by the alterations & amendments made in the Constitution, the General Court is hereby fully authorized and directed to fix the time when the amendments and alterations shall take effect, and make the necessary arrangements accordingly.

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All Judges of Courts and other civil officers whose appointment is vested in the Gov<sup>r</sup> & Council, (Justices of the peace & Coroners



excepted) shall be appointed and commissioned within one year after adopting the amendments to the Constitution; and the Commissions of all such officers, who have been heretofore appointed by the President and Council, shall thereupon determine and become void.

N. B. Some small alterations not herein mentioned, are in the Incorporation.

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II. [*The Constitution as reported by the committee, February 9, 1792, with the foregoing alterations and amendments incorporated.—ED.*]

## THE CONSTITUTION OF NEW HAMPSHIRE.

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### PART I.

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#### THE BILL OF RIGHTS.

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##### ARTICLE 1<sup>st</sup>.

All men are born equally free and independent: Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good.

2.

All men have certain natural, essential, and inherent rights—among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting property; and, in a word, of seeking and obtaining happiness.

3.

When men enter into a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others; and, without such an equivalent, the surrender is void.

4.

Among the natural rights, some are, in their very nature, unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

5.

Every individual has a natural and unalienable right to worship GOD according to the dictates of his own conscience and reason; 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, sentiments, or persuasion; provided he doth not disturb the public peace, or disturb others in their religious worship.

6.

As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in

the hearts of men, the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society, by the institution of the public worship of the DEITY, and of public instruction in morality and religion; therefore, to promote those important purposes, the people of this State have a right to empower, and do hereby fully empower, the Legislature, to authorize, from time to time, the several towns, parishes, bodies corporate, or religious societies, within this State, to make adequate provision, at their own expense, for the support and maintenance of public protestant teachers of piety, religion, and morality:

*Provided notwithstanding,* That the several towns, parishes, bodies corporate, or religious societies, shall, at all times, have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person, of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect, or denomination.

And every denomination of Christians, demeaning themselves quietly, and as good subjects of the State, 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.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain, and be in the same state as if this Constitution had not been made.

## 7.

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

## 8.

All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

## 9.

No office or place whatsoever, in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

## 10.

Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, 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 nonresistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

## 11.

All elections ought to be free, and every inhabitant of the State,



having the proper qualifications, has equal right to elect, and be elected, into office.

## 12.

Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this State controlable by any other laws than those to which they, or their representative body, have given their consent.

## 13.

No person, who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

## 14.

Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without any delay; conformably to the laws.

## 15.

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 favorable to himself; to meet the witnesses against him, face to face; and to be fully heard in his defence, by himself, and counsel. 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.

## 16.

No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the Legislature make any law that shall subject any person to a capital punishment, (excepting for the government of the army and navy, and the militia in actual service), without trial by Jury.

## 17.

In criminal prosecutions, the trial of facts, in the vicinity where they happen, is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the Judges of the Superior Court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the Legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

## 18.

All penalties ought to be proportioned to the nature of the offence.

No wise Legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason: Where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do those of the lightest die. For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate, mankind.

## 19.

Every citizen hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, 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 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 warrants ought to be issued, but in cases, and with the formalities, prescribed by law.

## 20.

In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by 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, and also in actions where the sum demanded in damages shall not exceed twenty shillings; the Legislature shall think it necessary hereafter to alter it.

## 21.

In order to reap the fullest advantage of the inestimable privilege of the trial by Jury, great care ought to be taken, that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time, and attendance.

## 22.

The LIBERTY OF THE PRESS is essential to the security of Freedom in a State: It ought, therefore, to be inviolably preserved.

## 23.

Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.

## 24.

A well regulated militia is the proper, natural, and sure defence of a State.

## 25.

Standing armies are dangerous to liberty, and ought not to be raised, or kept up, without the consent of the Legislature.

## 26.

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



27.

No soldier, in time of peace, shall 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.

28.

No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their Representatives in the Legislature, or authority derived from that body.

29.

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

30.

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 action, complaint, or prosecution, in any other Court or place whatsoever.

31.

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

32.

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

33.

No Magistrate, or Court of Law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

34.

No person can, in any case, be subjected to law-martial, or to any pains or penalties 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.

35.

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 impartial 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, that the Judges of the Supreme (or Superior) Judicial Court should hold their offices so long as they behave well; and that they should have honorable salaries, ascertained and established by standing laws.

36.

Economy being a most essential virtue in all States, especially in a young one; no pension shall be granted, but in consideration of actual

services ; and such pensions ought to be granted with great caution, by the Legislature, and never for more than one year at a time.

37.

In the government of this State, the three essential powers thereof, to wit, the Legislative, Executive, and Judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the Constitution in one indissoluble bond of union and amity.

38.

A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government ; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and Representatives : And they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.

39.

Beasts of the plough, not exceeding a yoke of oxen, or a horse, instruments of husbandry, & the necessary tools of a man's trade, shall not be liable to be distrained, attached, or taken on execution for debt, unless by the person who furnished them.

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PART II.

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THE FORM OF GOVERNMENT.

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The people inhabiting the territory of the State of New Hampshire, 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 STATE OF NEW HAMPSHIRE.

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THE GENERAL COURT.

The Supreme Legislative Power, within this State, shall be vested in the Senate and House of Representatives, each of which shall have a negative on the other.

The Senate and House of Representatives shall assemble every year on the third Wednesday of September, and at such other times as they may judge necessary ; and shall dissolve, and be dissolved, seven days next preceding the said third Wednesday of September ; and shall be stiled THE GENERAL COURT OF NEW HAMPSHIRE.

The General Court shall forever have full power and authority to erect and constitute Judicatories and Courts of Record, or other Courts, not repugnant or contrary to this Constitution, to be holden in the name of the State, for the hearing, trying, and determining all manner of



crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever, arising or happening within this State, or between or concerning persons inhabiting or residing, or brought within, the same, whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. 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.

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, ordinances, directions, and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this Constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, 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 this State; such officers excepted, the election and appointment of whom are 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 State, 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 also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said State; and upon all estates within the same; to be issued and disposed of by warrant, under the hand of the Governor of this State 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 this State, and the protection and preservation of the citizens thereof, according to such acts as are, or shall be, in force within the same.

Every bill which shall have passed both Houses, shall, before it become a law, be presented to the Governor: if he approve he shall sign it, but if not, he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large in their Journal, and proceed to reconsider it. If after such reconsideration, four sevenths of that House shall agree to pass the bill, it shall be sent together with such objections to the other house, by which it shall likewise be reconsidered, and if approved by a majority of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas & nays; & the names of the persons voting for or against the bill, shall be entered on the Journal of each House respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature by their adjournment prevent its return, in which case it shall not be a law.

Every Resolve shall be presented to the Governor, & before the same shall take effect, shall be approved by him, or being disapproved by

him, shall be repassed by the Senate & House of Representatives, according to the rules & limitations prescribed in the case of a bill.

No member of the General Court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the Legislature; and upon due proof thereof, such member shall forfeit his seat in the Legislature.

All persons who behave decently shall have liberty of admission, to hear the debates & proceedings of both Houses of the Legislature, except when the welfare of the State shall require secrecy.

While the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practised; and in order that such assessments may be made with equality, there shall be a valuation of the estates within the State taken anew once in every five years at least, and as much oftener as the General Court shall order.

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### SENATE.

THE Senate shall consist of twelve members, who shall hold their office for two years from the third Wednesday of September next ensuing their election.

And that the State may be equally represented in the Senate, the Legislature shall, from time to time, divide the State into twelve districts, as nearly equal as may be without dividing towns and unincorporated places; and in making this division, they shall govern themselves by the proportion of public taxes paid by the said districts, and timely make known to the inhabitants of the State the limits of each district.

The freeholders and other inhabitants of each district, qualified as in this Constitution is provided, shall biennially give in their votes for a Senator, at some meeting holden in the Month of March.

The Senate shall be the first branch of the Legislature; and the Senators shall be chosen in the following manner, viz. Every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upwards, paying for himself, or liable to pay a poll tax, or the amount thereof, shall have a right, at the annual or other meetings of the inhabitants of said towns, parishes and places, to be duly warned and holden every second year forever in the month of March, to vote for a Senator in the district whereof he is a member.

And every person qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing & being elected into any office or place within this State, in that town, parish & plantation where he dwelleth & hath his home.

The Legislature when they divide the State into districts, & as often as they shall think necessary, shall appoint some suitable persons as counters, in each district, who shall meet on the Thursday next following the second Wednesday of April every year in which there is meetings held in the district for the election of a Senator; and the General Court shall appoint the place of their meeting, and it shall be the duty of said counters untill others are appointed in their room, to receive, examine and count the votes for Senators & make a proper record thereof, certify the choice, and seasonably deposit the returns from the sev-



eral towns, parishes & places, & the record of their proceedings in the Secretary's office.

The meetings for the choice of Senators, & all governmental officers, shall be warned by warrant from the selectmen, & governed by a Moderator, who shall preside at such meetings impartially, & receive the votes of all the inhabitants of such towns, & parishes present & qualified to vote for Senators, & shall sort & count the same in the meeting & in presence of the town clerk, who shall make a fair record in open meeting, of the name of every person voted for, & the number of votes against his name, & a fair copy of this record shall be attested by the Town Clerk, & shall be sealed up & directed to the counters of the District with a superscription expressing the purport thereof, & delivered by said Clerk to the counters of the District in which such town or parish is, on or before the second Wednesday of April next following such town meeting.

*Provided nevertheless,* That no person shall be capable of being elected a Senator, who is not seized of a freehold estate, in his own right, of the value of two hundred pounds, lying within this State, who is not of the age of thirty years, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

And the inhabitants of plantations and places unincorporated, qualified as this Constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for Senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden every second year in the month of March, at such places respectively therein 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.

In case there shall not appear by the returns to the counters to be a Senator elected by a majority of votes for any district, the counters of that district shall take the names of the two persons who shall have the highest number of votes, & the number of votes that each of them shall have, & certify & deliver the same to the Selectmen of each town and parish, & the assessors of unincorporated places in such District, within eight days after the counting thereof; and it shall be the duty of said Selectmen and assessors respectively to warn a meeting of the inhabitants qualified to vote for Senators, to be held within fifteen days after the expiration of said eight days, giving at least twelve days notice, to elect one person out of the two returned as aforesaid to be Senator for the District. And the several town clerks & assessors in said District shall, within eight days after the expiration of said fifteen days, return a fair attested copy of the record of the number of votes in the towns, parishes & places in the District, to the counters of said District; and the counters shall, on the ninth or tenth day after the expiration of said fifteen days, meet & as soon as may be, sort & count the votes, declare the choice & notify the person elected.

And in case it shall so happen, that two or more persons, having the highest number of votes, shall have an equal number, the counters shall,

by lot determine which of them shall be sent to the people. And if it should so happen, that from the returns from the meetings held to complete the elections, that the two persons voted for should have an equal number of votes, the counters shall by lot determine which of them shall be Senator for such District & notify him accordingly.

All intermediate vacancies that may happen in the Senate, shall, from time to time be filled up in the same manner as the first elections are directed to be made; the Governor appointing the time for holding the meetings for that purpose.

The Senate shall be final judges of the elections, returns, and qualifications, of their own members, as pointed out in this Constitution.

The Senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

*Provided nevertheless,* That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the Legislature be not assembled on such day, or at such place.

The Senate shall appoint their own officers, and determine their own rules of proceedings: And not less than seven members of the Senate shall make a quorum for doing business; and when less than eight Senators shall be present, the assent of five, at least, shall be necessary, to render their acts and proceedings valid.

The Senate shall be a Court, with full power and authority to hear and determine all impeachments made by the House of Representatives against any officer or officers of the State, for mis-conduct or mal administration, in their offices. But previous to the trial of any such 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, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit, under this State; but the party, so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to the laws of the land.

Every officer whilst under an impeachment, shall be suspended from the exercise of the duties of his office; but the trial shall be as speedy as the nature of the case will admit.

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## HOUSE OF REPRESENTATIVES.

THERE shall be, in the Legislature of this State, a representation of the people, annually elected, and founded upon principles of equality: And, in order that such representation may be as equal as circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age, and upwards, may elect one Representative; if four hundred and fifty rateable polls, may elect two Representatives; and so proceeding, in that proportion, making three hundred such rateable polls the mean increasing number, for every such additional Representative.

*Provided, nevertheless,* That whenever the number of members of the House of Representatives shall exceed one hundred and ten, it shall be the duty of the Legislature to make such arrangements as that the members shall not at any time exceed that number; nor shall the



towns & districts intitled to send Representatives at any time be less than eighty.

Such towns, parishes, or places, as have less than one hundred and fifty rateable polls, shall be classed by the General Court, for the purpose of chusing a Representative, and seasonably notified thereof. And in every class, formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place, wherein most of the rateable polls reside; and afterwards in that which has the next highest number; and so on annually, by rotation, through the several towns, parishes, or places, forming the district.

Whenever any town, parish, or place, intitled to town privileges, as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place, very inconvenient, the Legislature may, upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a Representative to the General Court.

The members of the House of Representatives shall be chosen annually, in the month of March, and shall be the second branch in the Legislature.

All persons, qualified to vote in the election of Senators, shall be entitled to vote, within the town, district, parish, or place where they dwell, in the choice of Representatives. Every member of the House of Representatives shall be chosen by ballot; and for two years, at least, next preceding his election, shall have been an inhabitant of this State; shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold, whereof he is seized in his own right; shall be, at the time of his election, an inhabitant of the district he may be chosen to represent; and shall cease to represent such district immediately on his ceasing to be qualified as aforesaid.

The members of both Houses of the Legislature shall be compensated for their services out of the treasury of the State, by a law made for that purpose; such members attending seasonably, and not departing without licence. All vacancies, in the House of Representatives, may be filled up, at any time in the year as occasion may require.

The House of Representatives shall be the Grand Inquest of the State; and all impeachments made by them, shall be heard and tried by the Senate.

All money bills shall originate in the House of Representatives; but the Senate may propose, or concur with, amendments, as on other bills.

The House of Representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the House of Representatives shall be a quorum for doing business: But when less than two thirds of the Representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the House of Representatives, or Senate, shall be arrested, or held to bail, on mean process, during his going to, returning from, or attendance upon, the Court.

The House of Representatives shall be judges of the returns, elections & qualifications of its members, as pointed out in this constitution; choose their own Speaker, appoint their own officers & settle the rules

of proceedings in their own house. They shall have authority to punish, by imprisonment, every person who shall be guilty of disrespect to the House, in its presence, by any disorderly and contemptuous behavior, or by threatening, or ill treating, any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges, in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the House; in assaulting any witness, or other person, ordered to attend, by and during his attendance of the House; or in rescuing any person arrested by order of the House, knowing them to be such. The Governor, Senate, and Council, shall have the same powers in like cases: provided, that no imprisonment by either, for any offence, exceed ten days.

The journals of the proceedings of both Houses of the General Court, shall be printed and published immediately after every adjournment or prorogation; and shall contain all Acts & Resolves, & also votes for raising, granting & appropriating public monies; and upon motion made by any one member, the yeas and nays, upon any question, shall be taken & entered upon the journals: And any member of the Senate, or House of Representatives, or Council, shall have a right, on motion made at the time for that purpose, to have his protest, or dissent, with the reasons, against any vote, resolve, or bill, passed, entered on the journals.

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## EXECUTIVE POWER.

### GOVERNOR.

There shall be a Supreme Executive Magistrate, who shall be stiled The GOVERNOR of the State of New Hampshire; and whose title shall be His Excellency.

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 State for seven years next preceding; & unless he shall be of the age of thirty years; & unless he shall at the same time have an estate of the value of five hundred pounds, one half of which shall consist of a freehold, in his own right, within the State.

Those persons qualified to vote for Senators and Representatives, shall, within the several towns, parishes or places where they dwell, at a meeting to be called for that purpose, some day in the month of March annually, give in their votes for a Governor, to the Moderator who shall preside at such meeting; & the Clerk in the presence & with the assistance of the moderator shall, in open meeting, sort & count the votes, and form a list of the persons voted for, with the number of votes for each person against his name, & shall make a fair record of the same in the town books, & a public declaration thereof in the said meeting; and shall, in the presence of said inhabitants seal up a copy of said list attested by him, & transmit the same to the Sheriff of the County, thirty days at least before the third Wednesday of September, or shall cause returns of the same to be made to the office of the Secretary of the State, seventeen days at least before said day, who shall lay the same before the Senate & House of Representatives on the third Wednesday of September, to be by them examined: And in case



of an election by a majority of votes through the State, the choice shall be by them declared & 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, & make return to the Senate of the two persons so elected;—on which the Senate shall proceed by ballot to elect one of them who shall be declared Governor.

The Governor with advice of Council, shall have full power & authority in the recess of the General Court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said Court; and during the session of said Court to adjourn or prorogue it to any time the two houses may desire, & to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the State may require the same.

In cases of disagreement between the two Houses, with regard to the time of adjournment or prorogation, the Governor, with advice of Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said third Wednesday of September.

And, in case of any infectious distemper prevailing in the place where the said Court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the Governor may direct the session to be holden at some other the most convenient place within the State.

The Governor of this State for the time being shall be commander in chief of the army and navy, and all the military forces of the State, by sea and land; and shall have full power by himself, or by any chief 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 this State, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this State; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, 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 State; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion, declared by the Legislature to exist, as occasion shall necessarily require: 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 State: And in fine, the Governor hereby is entrusted with all other powers incident to the office 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: Provided, that the 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 State, 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, nor grant commissions for exercising the law-martial in any case, without the advice and consent of the Council.

The power of pardoning offences, except such as persons may be convicted of before the Senate, by 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 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.

All judicial officers, the Attorney General, Solicitors, all Sheriffs, Coroners, Registers of Probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the Governor and Council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the Council agree thereto. The Governor and Council shall have a negative on each other, both in the nominations and appointments. The yeas & nays both of the Governor & Council present, shall on all nominations & appointments be entered on the Journals of the Council. The Captains and subalterns in the respective regiments shall be nominated by the field officers, & if approved by the Governor, shall be appointed by him.

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 State for the time being.

The commanding officers of the regiment shall appoint their Adjutants and Quarter Masters; the Brigadiers, their Brigade-Majors; the Major-Generals, their Aids; the Captains and Subalterns, their non-commissioned officers.

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

No monies shall be issued out of the treasury of this State, and disposed of, (except such sums as may be appropriated for the redemption of bills of credit, or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, by and with the advice and consent of the Council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

All public boards, the Commissary-General, all superintending officers of public magazines and stores, belonging to this State, 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 under their care respectively; distinguishing the quantity and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the 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 harbor or harbors adjacent.



The Governor and Council shall be compensated for their services, from time to time, by such grants as the General Court shall think reasonable.

Permanent and honorable salaries shall be established by law, for the Justices of the Supreme Court.

#### LIEUTENANT GOVERNOR.

There shall be annually elected in the month of March, a Lieutenant Governor, whose title shall be His Honor: And who shall be qualified in point of property & residence, & elected in the same manner as the Governor is.

The qualifications of the electors shall be the same as those required by this Constitution for the election of Senators.

The Lieutenant Governor, when the Governor is in the chair, shall be President of the Senate, & have a casting vote in case of a tie.

Whenever the chair of the Governor shall be vacant, by reason of his death, absence from the State, or otherwise, the Lieutenant Governor shall, during such vacancy, have & exercise all the powers & authorities which by this Constitution the Governor is vested with when personally present.

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#### COUNCIL.

THERE shall be annually elected, by ballot, five Councillors, for advising the Governor in the executive part of government. The freeholders and other inhabitants in each county, qualified to vote for Senators, shall, some time in the month of March, give in their votes for one Councillor; [The number of votes for Councillors shall be returned to the Secretary of the State, in like manner as the votes for Governor. The Secretary & Treasurer of the State, shall, untill the Legislature shall appoint other persons for that purpose, sort & count the votes, make a record thereof, & certify the choice, which record, & the returns from the several towns, parishes & places shall be deposited in the Secretary's office.]

[The foregoing paragraph within brackets is *crossed* in the journal.—ED.]

And the person having a majority of votes in any county, shall be considered as duly elected a Councillor: But if no person shall have a majority of votes in any county, the Senate and House of Representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of them two shall elect, by joint ballot, the Councillor wanting for such county.

*Provided nevertheless,* That no person shall be capable of being elected a Councillor, who has not an estate of the value of five hundred pounds within this State, three hundred pounds of which (or more) shall be a freehold in his own right; and who is not thirty years of age; and who shall not have been an inhabitant of this State for seven years immediately preceding his election; and, at the time of his election, an inhabitant of the county in which he is elected.

The Secretary shall, annually, seventeen days before the third Wednesday of September, give notice of the choice to the persons elected.

If any Councillor shall be elected Governor or Lieutenant Governor, or member of either branch of the Legislature, and shall accept the trust; or if any person, elected as Councillor, shall refuse to accept the office; or in case of the death, resignation, or removal of any Councillor out of the State; the Governor may issue a precept for the election of a new Councillor in that county where such vacancy shall happen; and the choice shall be in the same manner as before directed.

If any new county shall hereafter be made in this State, a Councillor shall be chosen therein in the same manner as before directed.

The Governor shall have full power and authority to convene the Council, from time to time, at his discretion; and, with them, or the majority of them, may, and shall, from time to time, hold a Council, for ordering and directing the affairs of the State, according to the laws of the land.

The members of the Council may be impeached by the House, and tried by the Senate, for mal-conduct.

The resolutions and advice of the Council shall be recorded by the Secretary, in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time, by either House of the Legislature; and any member of the Council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

And whereas the elections, appointed to be made by this Constitution, on the third Wednesday of September 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 the elections shall be as follows: The Governor shall be first elected, provided there should be no choice of him by the people: And afterwards, the two Houses shall proceed to fill up the vacancy, if any, in the Council.

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#### SECRETARY, TREASURER, COMMISSARY, &C.

The Secretary, Treasurer, & Commissary-General, shall be chosen by joint ballot of the Senators and Representatives assembled in one room.

The records of the State shall be kept in the office of the Secretary, and he shall attend the Governor and Council, the Senate, and Representatives, in person, or by Deputy, as they may require.

The Secretary of the State shall, at all times, have a Deputy, to be by him appointed; for whose conduct in office he shall be responsible: And in case of the death, removal, or inability of the Secretary, his Deputy shall have and exercise all the duties of the office of Secretary of this State, until another shall be appointed.

The Secretary, before he enters upon the business of his office, shall give bond, with sufficient sureties, in a reasonable sum, for the use of the State, for the punctual performance of his trust.

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#### COUNTY TREASURER, &C.

The County Treasurer, & Registers of Deeds shall be elected by the inhabitants of the several towns, in the several Counties in the State, according to the method now practised, & the laws of the State.

*Provided nevertheless,* The Legislature shall have authority to alter



the mode of electing those officers, but not so as to deprive the people of the right they now have of electing them—& also to divide the several Counties into as many districts, for registering of deeds, as to them shall appear necessary, the inhabitants of each District to elect a Register.

The County Treasurers & Register of deeds, before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, & shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the County or District, for the punctual performance of their respective trusts.

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### JUDICIARY POWER.

The Judicial power of the State shall be vested in a Supreme Court of Judicature, except as is hereafter provided; This court shall consist of one Chief Justice, & and not more than nine nor less than six Associate Justices.

The Supreme Judicial Court shall be & they hereby are, fully authorized and empowered, to grant new trials & restorations to law, in all cases where to them it shall appear reasonable.

The power of hearing & determining causes in Equity, shall, by the Legislature, be vested in the Supreme Judicial Court, to be limited and defined by law; and no suit shall be sustained in Equity, where adequate remedy may be had in the courts of law.

There shall be a Court erected in each county, to be called the County Court, to consist of one Chief Justice, & not more than six nor less than four Associate Justices, who shall have all the jurisdiction in civil & criminal matters and vested with all the powers and authorities that now appertain to the Courts of General Sessions of the Peace, and such other matters (the trying of civil suits excepted) as may be constitutionally assigned to them by the Legislature, except the raising County taxes, which taxes shall be raised by the Representatives in each County, in such manner as the Legislature shall direct—appeals shall be granted from said Courts to the Supreme Judicial Court, as they are now allowed from the Courts of General Session of the Peace to the Superior Court; or in such cases and manner as the Legislature may by Law establish: *Provided nevertheless*, That the General Court shall have authority to make such other regulations by law as shall be necessary for the appropriation of County taxes.

Justices of the Peace shall have the power of hearing & determining all actions wherein the sum demanded in damage does not exceed four pounds, except those wherein the title to things real may be drawn in question—an appeal being allowed in civil actions to the Supreme Judicial Court, & in criminal matters to the County Courts in such cases & manner as the Legislature shall by law establish.

The tenure that all commission officers shall have by law in their offices, shall be expressed in their respective Commissions. All Judicial officers, duly appointed, commissioned & sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this Constitution: *Provided nevertheless*, the Governor, with consent of Council, may remove them upon the Address of both Houses of the Legislature.

Each branch of the Legislature, as well as the Governor & Council,

shall have authority to require the opinions of the Justices of the Supreme Court upon important questions of Law, & upon solemn occasions.

No person shall hold the office of Judge of any Court or sheriff of any County, after he has arrived to the age of 65 years.

In order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail in discharging the important duties of his office with ability & fidelity, all commissions of Justices of the Peace shall become void, at the expiration of five years from their respective dates; but upon the expiration of any commission, the same may, if necessary, be renewed.

No Judge of any Court, or Justice of the Peace, shall act as Attorney, or be of council, to any party, or originate any civil suit, in matters that shall come before him as Judge, or Justice of the Peace.

All matters relating to the probate of wills, and granting letters of administration, &c. shall be exercised by the Judges of Probate, in such manner as the Legislature have directed, or may direct; And the Judges of Probate shall hold their Courts at such place or places, on such fixed days as the convenience of the people may require: And the Legislature shall from time to time hereafter appoint such times & places, untill which appointments, the said Courts shall be holden at the times & places which the respective Judges shall direct.

No Judge or Register of Probate of Wills, &c. shall be of Council, act as Advocate or receive any fees as advocate or council, in any probate business that is pending, or that may be brought into any Court of probate in the county of which he is Judge or Register.

All causes of marriage, divorce & alimony, & all appeals from the respective judges of probate, shall be heard & tried by the Supreme Court, untill the Legislature shall, by Law, make other provision.

#### CLERKS OF COURTS.

The Clerks of the Courts of law shall be appointed by the respective Courts during pleasure: And to prevent any fraud or unfairness in the entries & records of the Courts, no such Clerk shall be of council, in any cause in the Court of which he is Clerk, nor shall he fill any writ in any civil action whatsoever.

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#### ENCOURAGEMENT OF LITERATURE, &c.

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and œconomy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.



*OATH and Subscriptions; Exclusion from Offices; Commissions; Writs; Habeas Corpus; the Enacting Stile; Continuance of Officers; Provision for a future Revision of the Constitution, &c.*

Any person chosen Governor, Lieutenant Governor, Councillor, Senator, or Representative, military or civil officer, (town officers excepted) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B., do solemnly swear, that I will bear faith and true allegiance to the State of New Hampshire, and will support the Constitution thereof.

*So help me God.*

I, A. B., do solemnly and sincerely 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, agreeably to the rules and regulations of this Constitution, and the Laws of the State of New Hampshire.

*So help me God.*

*Provided always,* When any person chosen or appointed as aforesaid, shall be scrupulous of swearing, & shall decline taking the said oaths, such shall take & subscribe them, omitting the word "swear," and likewise the words, "So help me God;" subjoining instead thereof, *This I do under the pains and penalties of perjury.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the Secretary's office, he shall not be obliged to take said oath again.

And the oaths or affirmations shall be taken and subscribed by the Governor, before the Lieutenant Governor, in the presence of the Legislature, and by the Senate and Representatives first elected under this Constitution, as amended, and altered, before the President and three 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.

All commissions shall be in the name of the State of New Hampshire, signed by the Governor, and attested by the Secretary, or his Deputy, and shall have the great seal of the State affixed thereto.

All writs issuing out of the Clerk's office in any of the Courts of Law, shall be in the name of the State of New Hampshire; shall be under the seal of the Court whence they issue, and bear test of one of the Justices of the Court to which the same shall be returnable; and be signed by the Clerk of such Court.

All indictments, presentments, and informations, shall conclude, *against the peace and dignity of the State.*

The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

The privilege and benefits of the Habeas Corpus, shall be enjoyed in this State, in the most free, cheap, expeditious, and ample manner, and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

The enacting stile in making and passing acts, statutes, and laws,

shall be—*Be it enacted by the Senate and House of Representatives, in General Court convened.*

No Governor, Lieutenant Governor or Judge of the Supreme Judicial Court, shall hold any office or place under the authority of this State, except such as by this Constitution they are admitted to hold, saving that the Judges of the said Court may hold the offices of Justice of the Peace throughout the State; nor shall they hold any place or office, or receive any pension or salary, from any other State, government, or power, whatever.

No person shall be capable of exercising, at the same time, more than one of the following offices within this State, viz. Judge of Probate, Sheriff, Register of Deeds; and never more than two offices of profit, which may be held by appointment of the Governor, or Governor and Council, or Senate and House of Representatives, or Supreme judicial or Inferior Courts; military offices, and offices of Justices of the Peace, excepted.

No person holding the office of Judge of any Court, Secretary, Treasurer of the State, Attorney-General, Commissary-General, military officers receiving pay from the continent or this State, (excepting officers of the militia, occasionally called forth on an emergency) Register of Deeds, President, Professor or instructor of any college, Sheriff, or officer of the customs, including naval officers, Collectors of excise, Collectors of taxes, members of Congress, or any person holding any office under the government of the United States, shall, at the same time hold the office of Governor, Lieutenant Governor, or have a seat in the Senate, or House of Representatives, or Council; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of his seat in the chair, Senate, House of Representatives, or Council; and the place so vacated shall be filled up.

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

No new town or parish shall be formed in whole or in part, out of any town or parish without the consent of a major part of the qualified voters of such town or parish, out of which they are so formed, voting upon the question at a legal meeting held for that purpose.

All Judges of Courts and other civil officers, whose appointment is vested in the Governor and Council (Justices of the Peace and coroners only excepted), shall be appointed and commissioned within one year after adopting the amendments to the Constitution: and the Commissions of all such officers who have been heretofore appointed by the President and Council shall thereupon determine and become void.

To the end that there may be no failure of justice, or danger to the State, by the alterations and amendments made in the Constitution, the General Court is hereby fully authorized and directed to fix the time when the amendments and alterations shall take effect, and make the necessary arrangements accordingly.

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 books containing the laws of this State, in all future editions thereof.

The Legislature, whenever two thirds of both houses shall deem it



necessary, shall propose amendments, or on the application of a majority of the incorporated towns and parishes within this State, shall call a Convention for proposing amendments, which in either case, shall be valid to all intents and purposes as part of this Constitution, when approved of by a majority of the qualified voters present and voting in town meetings on the question.

[JOURNAL RESUMED—P. 88.]

Proceeded to take up the report of the Committee and considered the same paragraph by paragraph; and in order for a free and full discussion thereof, Convention resolved themselves into a Committee of the whole: The Hon<sup>b</sup> Nath<sup>l</sup> Peabody Esq<sup>r</sup>. appointed chairman, who took the chair: They then proceeded to a consideration of the report.

The first proposed amendment was in the 19<sup>th</sup> Article of the Bill of Rights, which was read and no debate thereon [see marg. p. 46].

The second was in the 20<sup>th</sup> Article of the said Bill of Rights, which was read: The proposed alteration was in the following words: "And also in Actions where the sum demanded in Damages shall not exceed twenty shillings;"—and after much debate the question was put, Whether said alteration shall stand in said article as reported;—which was determined in the negative. Some words were then proposed as a substitute, but were not accepted.

The Committee then rose with leave to sit again; and the President took the chair & the Committee reported progress. [P. 89.] Adjourned to 9 o'clock to-morrow morning.

Friday, Feb<sup>y</sup> 10<sup>th</sup>, 1792.

Convention met according to adjournment. After reading the Journal of yesterday &c. proceeded in Com<sup>tee</sup> of the whole: The chairman having taken the chair.

Resumed the consideration of the 20<sup>th</sup> article of the Bill of Rights, and after some debate motion was made to postpone the further consideration thereof for the present— which passed in the affirmative.

The next proposed amendment was for a thirty-ninth Article in the bill of Rights in the following words: "Beasts of the plough not exceeding a yoke of oxen or a horse, Instruments of Husbandry, and the necessary tools of a man's trade, shall not be liable to be distrained, attached or taken in Execution for Debt, unless by the person who furnished them."

After some debate the question was put, Shall this be

accepted as an article of the Bill of Rights? Voted in the negative.

The next proposed amendment was in the second paragraph under the head GENERAL COURT:—which was to make the paragraph read thus: “The Senate and House shall assemble every year on the third Wednesday of September, and at such other times as they may judge necessary, and shall dissolve and be dissolved seven days next preceding the said third Wednesday of September, and shall be stiled the GENERAL COURT of NEW HAMPSHIRE”—which [P. 90.] being read and considered and after some debate, the question was put, Shall the word September stand in the report? Voted in the negative.

Motion was then made to insert the word November:—but the motion was lost.

Motion was then made that the word January be inserted, and the word “third” be struck out, that it might read the *first* Wednesday in January: but the motion was lost.

Motion was then made that the last mentioned paragraph of the report be postponed to make way for the following: Shall there be any alteration made in the time for the first meeting of the General Court?—which motion prevailed.

The question was then put, Shall there be any alteration made in the time for the first meeting of the General Court? To determine which the yeas and nays were called, and were as follows, viz.:

[P. 91.] 49 Yeas—50 Nays. So no alteration is to be made.

Proceeded to the Report under the head PRESIDENT [see margin, p. 55] or Governor. The first paragraph proposed to be altered to read as follows, (viz.) The word “President” shall be struck out and Governor inserted in all the sections where the President is named: which report was read and considered, received and accepted.

[P. 92.] The next amendment that took place was in the following words: “But if no person shall have a majority of votes, the Senate and House of Representatives shall by joint Ballot elect one of the two persons having the highest number of votes who shall be declared Governor.”

The Committee then rose with leave to sit again, and the President took the Chair, and the Committee reported progress.

The Convention then adjourned to 3 o'clock P. M.



Met accordingly.

Proceeded to the first paragraph under the Head GENERAL COURT.

Two alterations were proposed, but neither obtained, and it was voted to postpone the consideration of said proposed alterations for the present.

They then proceeded to the paragraphs under the head GOVERNOR. The second paragraph was read and not debated.

The third paragraph as reported was read and received so far as to the words above mentioned, "but if no person [P. 93.] shall have a majority," &c.

The fourth paragraph was received with the alteration from "ninety days" to "seven months," and with an alteration fixing the place to which the Governor shall adjourn the Court in cases of disagreement between the two Branches &c. to meet at the place where the General Court should be at that time sitting. The remainder of the paragraphs were accepted as far as to the one beginning thus: "The Governor and Council shall be compensated," &c.

The Committee then rose with leave to sit again, and the President took the Chair, and the Committee reported progress.

The Convention then adjourned to 9 o'clock to-morrow morn<sup>g</sup>.

Saturday, Feb<sup>y</sup> 11<sup>th</sup>, 1792.

The Convention met according to adjournment. After reading the Journal &c. proceeded in Committee (The Chairman in the Chair) to the consideration of the paragraph, The Governor and Council, &c. And was Voted to stand thus: The Governor and Council shall have a compensation for their services, to be fixed annually by the General Court early at their first session, which shall not be [P. 94.] increased or diminished during the time for which the Governor and Council shall have been elected.

The next paragraph was read respecting Salaries to the Judges of the Supreme Court, but not debated.

Proceeded to the Report under the head, Lieut. Governor, but it was not accepted.

Nextly, proceeded to consider of the Report respecting the Governor's power in legislation, or otherwise the negative that the Governor may have on the Acts of the Legislature;—which is placed under the head

## GENERAL COURT.

The Report was accepted with this alteration that, On the return of a Bill by the Governor for reconsideration, it shall require two thirds of both Houses instead of four sevenths of one and a majority of the other,—as reported.

The next paragraph in the report respecting the Governor's negative on a Resolve was accepted.

The next paragraph respecting a member taking fees, [P. 95.] being of Council &c. was accepted.

Instead of the next paragraph reported, the following was substituted:—The doors of the Galleries of each house of the Legislature shall be kept open to all persons who behave decently, except when the welfare of the State, in the opinion of either branch shall require secrecy.

Proceeded to the Report under the head

## SENATE,

and Voted that the word "twelve" be erased & the word thirteen inserted in the first and second paragraphs, but did not finish the debate on the first paragraph respecting electing the Senate for two years. The Committee rose with leave to sit again, and the President took the Chair and the Committee reported progress.

Convention then adjourned to Monday next at 3 o'clock, P. M.

Monday, Feb<sup>y</sup> 13<sup>th</sup>, 1792.

Convention met according to adjournment.

After reading the Journal &c. The Chairman took the Chair and in Committee of the whole proceeded to the consideration of the Senators being chosen for two years, and being divided into two classes, and dismissing seven the first year, and filling up the vacancies from the same districts, and dismissing the remainder the next year, and fill [P. 96.] up the vacancies from the districts in which they were chosen, and so on annually by rotation: & after some debate the foregoing proposition was postponed to make way for the following, (viz.) That in order to render the Senate Independent of and a check upon the other Branch of the Legislature, and that they may indeed be the representatives of the People, the choice of the Senate ought to be completed by the People themselves, and not by the medium of the House of Representatives; and Senators



elected as has been heretofore practised :—which last proposition was determined by yeas & nays, and are as follows ;—  
44 yeas—45 nays. So it was negatived.

The foregoing proposition was then tried and rejected.

In the third clause reported, the word “biennially” to be erased and the word annually inserted.

In the fourth clause, the words, “Every second year” be erased and that the word annually [be] inserted.

On the words in said fourth clause “paying for himself or liable to pay a poll tax or the amount thereof,” some debate ensued and a Committee was chosen to report thereon; the Committee were Mr. Thompson, Mr. Walker & Mr. Blanchard.

The Committee then rose with leave to sit again, and the President took the chair and the Committee reported progress.

[P. 98.] Adjourned to half past 8 o'clock to-morrow morning.

Tuesday, Feb<sup>y</sup> 14<sup>th</sup> 1792.

The Convention met according to adjournment. After reading the Journal, &c. the chairman having taken the chair proceeded on the report of the Committee: much debate ensued on a proposed clause in the following words: “Every officer whilst under impeachment shall be suspended from the exercise of the duties of his office, but the trial shall be as speedy as the nature of the case will admit:”—but the clause was rejected.

On debating the report of the Sub Committee and the matter to them referred, motion was made, that the words “paying for himself a poll tax” be erased, and the words “excepting paupers & persons excused from paying taxes at their own request” be inserted;—which motion prevailed: And that the word “free” be inserted following the word “every.”

Proceeded to the Report under the head

#### GENERAL COURT.

Debated on several proposed amendments, but no alteration made in the Constitution.

The Committee rose with leave to sit again and the President [P. 99.] took the chair. The Committee reported progress.

Adjourned to half past 2 o'clock P. M. Met accordingly.

Voted, That when the business is gone through in Committee of the whole, and Convention shall have come to a determination with respect to any alteration that may be made, that the Secretary with William Plummer Esq. arrange the alterations that may have taken place, by incorporating said alterations into the Bill of rights and Constitution in their proper places.

Proceeded in Committee of the whole (The chairman having taken the chair) to the consideration of the report under the head

GENERAL COURT,

and the following clause in the report was rejected, (viz) a *Proviso*, that when the number of Representatives shall amount to one hundred and ten, the Legislature shall make such arrangements as that at no time they shall exceed that number, nor at any time less than eighty.

The alteration respecting filling up vacancies was also rejected.

Proceeded to the report under the head

COUNCIL.

[P. 100.] Accepted the whole, with the word "and" added to the paragraph respecting a new County,—till the last clause respecting the order of Elections—which was passed over without a determination.

Proceeded to the Report under the head

SECRETARY, TREASURER, COMMISSARY, &c.

the whole of which was accepted.

Proceeded to the Report under the head

COUNTY TREASURER, &c.

which was debated with respect to Registers of Deeds, but came to no determination.

The Committee then rose with leave to sit again, and the President took the chair, and the Committee reported progress.

Adjourned to 9 o'clock to-morrow morning.

Wednesday, Feb<sup>y</sup> 15<sup>th</sup>, 1792.

Convention met according to adjournment. After reading the Journal, &c. Proceeded to the report of the Com-



mittee under the head COUNTY TREASURER, &c. the first [P. 101.] clause in the report was accepted; the second accepted with the following words inserted—"the manner of certifying the votes, and"—to be inserted immediately after the word "alter." Also the following words inserted, "And also on the application of the major part of the inhabitants of any county, to divide the same into two districts for registering of Deeds when ever it shall appear reasonable," instead of the words, "and also to divide the several Counties into as many districts for registering of Deed[s] as to them shall appear necessary"—the other clause was accepted.

Proceeded to consider of the report under the head

#### JUDICIARY POWER.

Voted that the whole of the system be considered in the first place and afterwards to take the paragraphs separately. After some debate the Committee rose with leave to sit again; and the President took the chair and the Committee reported progress.

Adjourned to 3 o'clock P. M. Met accordingly.

Proceeded in Committee of the whole to the consideration [P. 102.] of the report under the head Judiciary Power. After some debate it was voted to proceed by paragraphs.

Upon reading the first paragraph, which was in the following words: "The Judicial power of the State shall be vested in a Supreme Court of Judicature, except as is hereafter provided; This Court shall consist of one Chief Justice and not more than nine nor less than six associate Justices." Motion was made to divide the paragraph and take a vote on the former part, which obtained, namely: "The Judicial Power of the State shall be vested in a Supreme Court of Judicature, except as is hereafter provided:" on which the yeas and nays were called and are as follows. [P. 103.] 48 Yeas—54 nays. So it was rejected.

Motion was then made that the remainder under said head be postponed, to consider of a proposition laid on the table by a member;—which motion obtained: but before any debate ensued the Committee rose with leave to sit again, and the President took the Chair—and the Committee reported progress.

Adjourned to 9 o'clock to-morrow morning.

[P. 104.]            Thursday, Feb<sup>y</sup> 16<sup>th</sup>, 1792.

Convention met according to adjournment.

After reading the Journal &c., Proceeded in Committee of the whole to take under consideration the proposition voted to be taken under consideration the last evening ; and motion was made to postpone said proposition, and take under consideration another delivered in this morning by a member in the following words: "It shall be the duty of the General Court to make a reform in the Judiciary System, that Justice may be administered in a more cheap and expeditious manner than is now practised ; and that no party shall have a review after the cause has been determined against him twice by Jury." After some debate it was moved to postpone the last proposition in order to make room for the following :

"If the General Court shall judge it necessary for the public good they are authorized and impowered to abolish the Courts of Common pleas and invest such other Courts as they may establish with the powers and Jurisdiction now vested in said Courts of Common pleas, or to make any regulations respecting the powers and Jurisdiction now [P. 105.] existing, as the public good may require.' After some debate the motion was divided, and motion was made to take the opinion of the Committee whether the following words in the proposition should stand: "It shall be the duty of the General Court to make a reform in the Judiciary system:" to determine which the yeas and nays were [P. 106.] called and are follows : 56 Yeas—39 nays. So the words are to stand.

It was then voted that said proposition be accepted as before stated, in the following words: "It shall be the duty of the General Court to make a reform in the Judiciary system that justice may be administered in a more cheap and expeditious manner than is now practised, and that no party shall have a review after the cause has been determined against him twice by Jury."

The Committee then rose with leave to sit again, and the President took the chair and the Committee reported progress.

Adjourned to 3 o'clock, P. M. Met accordingly.

[P. 107.] Proceeded in Committee of the whole to the consideration of the following proposition: "The General Court



are hereby impowered to make alterations in the power and jurisdiction of the Courts of Common pleas and the Court of General Sessions respectively, or if they shall judge it necessary for the public good, to abolish those Courts or either of them, and invest such other Courts as they may establish, with the jurisdiction and powers now vested in the said Courts of Common pleas and Courts of General Sessions of the Peace, as the General Court may from time to time judge expedient for the due administration of Law and Justice"—which proposition was accepted.

The next proposition debated was in the following words: "The General Court are also impowered to give to Justices of the Peace (who shall by the Executive be specially commissioned for that purpose) jurisdiction in civil causes when the damages demanded shall not exceed four pounds and title of land is not concerned, but with right of appeal to either party to some other Court, so that a trial by Jury in the last resort may be had."

After some debate it was voted to strike out the words [P. 108.] "who shall by the Executive be specially commissioned for that purpose," and the proposition was then accepted:—Determined by yeas and nays, 64 yeas—34 nays.

Proceeded to the report respecting vesting Chancery powers, which was in the following words: "And may vest in such Courts respectively as to the General Court may appear for the public good, the Powers incident to a Court of Equity in Chancery, not repugnant to the Constitution."

After some debate it was agreed to have it stand as voted the last session, excepting that the words "ought to" be erased, and instead thereof the words, "shall by the Legislature."

The Committee then rose with leave to sit again, and the President took the chair, and the Committee reported progress.

Adjourned to 9 o'clock to-morrow morning.

Friday, Feb<sup>y</sup> 17<sup>th</sup>, 1792.

Convention met according to adjournment. After reading the Journal &c. Proceeded in Committee of the whole to consider of several motions proposed for vesting the power of granting new trials & restoring to Law &c. After some de- [P. 109.] bate the several motions were committed to the

consideration of Mr. Pickering, Mr. Livermore, Mr. Humphreys, Mr. Atherton & Mr. Payne who are to report their opinion.

The next paragraph in the report respecting the tenure of Commissions &c. was accepted.

The next respecting the Legislature requiring the opinions of the Supreme Court &c. was accepted.

The next paragraph respecting a Judge or Sheriff holding their office after 65 years of age, motion was made to strike off 65 and insert 70,—which motion obtained; and the words “or Judge of Probate,” to be inserted, following the word “Court”—was accepted with the alterations.

The next paragraph, respecting Commissions of Justices of the Peace expiring in five years was accepted.

The next paragraph, Judges and Justices &c. being of Council &c. was accepted.

The next paragraph relating to Probate of Wills &c. was referred to the Committee chosen this morning, and that they report their opinion.

The remaining two paragraphs were accepted, under said head.

[P. 110.] Under the head CLERK OF COURTS, the paragraph was accepted.

Under the head Encouragement of Literature, the paragraph was accepted.

Under the head OATHS & SUBSCRIPTIONS, EXCLUSIONS, &c. the several paragraphs were accepted, with the word “Lieutenant Governor” erased, till it come to the paragraph beginning, “all writs issuing” &c. which clause was rejected.

The two next paragraphs were accepted.

The next paragraph in the Constitution though not reported is to come under consideration in Convention.

The two next paragraphs were accepted as reported.

Proceeded to the next paragraph reported “No Governor,” &c. after some debate, the Committee rose with leave to sit again, and the President took the chair, and the Committee reported progress.

Adjourned to 3 o'clock, P. M. Met accordingly.

Proceeded in Committee of the whole to the paragraph under consideration, when the Committee rose and accepted the same.



[P. 111.] The next paragraph was read, considered and accepted.

The next paragraph was read and the words "Collectors of Excise and State and Continental taxes hereafter appointed and not having settled their accounts for their collections with the respective officers with whom it is their duty to settle such accounts," added to said paragraph.

Motion was then made to strike out the words "President, professor or Instructor of any College;" After some debate the question was put, shall the words stand—which question was determined by yeas and nays, and were as follows:—viz.

[P. 112.] 56 Yeas—45 Nays. So the motion did not prevail.

The next paragraph was accepted.

The next proposed paragraph, "No new town or parish," &c. was rejected.

The next proposed paragraph, "All Judges of Courts," &c. was rejected.

The next proposition that came under consideration was respecting an officer to act as first magistrate in case of a vacancy, and voted that "the President of the Senate officiate as first magistrate in the absence of the Governor."

[P. 113.] The Committee rose with leave to sit again, and the President took the Chair, and the Committee reported progress.

Adjourned to 9 o'clock to-morrow morning.

Saturday, Feb<sup>y</sup> 18<sup>th</sup>, 1792.

Convention met according to adjournment. After reading the Journal &c. Proceeded in Committee of the whole to consider of the Reports of the Sub Committee. The report on the several motions proposed for vesting the powers of granting new trials, restoring to Law, &c. was in the following words: "And it shall be the duty of the General Court to vest in such Court or Courts of Law as to them may appear expedient, the power of Granting new trials, or a trial after judgment, either upon verdict of a Jury, default, non-suit, or complaint for affirmation of judgment, in all cases when substantial justice has not been done (except as before excepted) in such manner and under such restrictions and regulations as to the General Court may appear for the public good: *Provided*, application be made for such review or trial within one year from the ren-  
[P. 114.] dition of judgment:"—which report was accepted.

On the paragraph relating to the Probate of Wills &c. which was referred to the Sub Committee, they reported as follows: "All matters relating to the Probate of Wills &c. granting letters of administration &c. shall be exercised by the Judges of Probate in such manner as the Legislature have directed or may direct; and the judges of Probate shall hold their Courts at such place or places on such fixed days as the convenience of the people may require and the Legislature from time to time appoint:" which report was accepted.

The next proposition that was considered was in the following words: "The person who in case of a vacancy shall execute the office of Governor, shall be chosen by the People in the same way and manner, as the Governor by the Constitution is to be chosen:"—which was determined by Yeas and Nays—and are as follows: viz.

[P. 115.] 47 Yeas—52 Nays. So the motion was lost.

It was then voted, that "the Senate shall appoint their President and other officers," and determine &c. as in the present Constitution.

Nextly, proceeded to the consideration of a proposition in the following words, viz. "The Senate before they proceed [P. 116.] to the trial of any officer impeached, shall summon him by process to be served by a sworn officer at least days before the day of trial; and in case of his non-appearance shall proceed to hear the Impeachment and evidence, and render judgment, his non-appearance notwithstanding;"—which, with causes of impeachment &c. was referred to a Committee consisting of Mr. Humphreys, Mr. Plummer and Mr. Peabody, who are to report to Convention their opinion thereon.

Voted, That Mr. Walker, Mr. Thompson, Mr. Peabody, Mr. Atherton & Mr. Humphreys be a Committee to take under consideration the 20<sup>th</sup> Article in the Bill of Rights.

The Committee then rose with leave to sit again, and the President took the chair and the Committee reported progress.

Adjourned to 3 o'clock, P. M. Met accordingly.

The next paragraph in the report, "To the end that there be no failure," &c. was accepted.

The next paragraph was accepted.

[P. 117.] Instead of the last paragraph reported, the following was voted—"At the first annual or other meeting held for the choice of Representatives after seven years is expired



from the time of the Amendments to the Constitution having been accepted, the Electors shall give their Representatives their opinion or Instructions in writing voted at the meeting, relative to the propriety or necessity of calling a Convention to revise the Constitution; and if it shall appear to the General Court that it is the opinion of a major part of the people voting thereon to have the Constitution revised, it shall be their duty to call a Convention for that purpose; and the same method shall be observed at the end of every seven years afterwards; And the amendments which may be agreed on by such Convention shall be valid to all intents and purposes as part of this Constitution when approved of by \_\_\_\_\_ of the qualified voters present and voting in Town meeting on the question."

The Committee then rose and the President took the chair, the Committee informed that their Report should be given in on Monday morning, at the time of the meeting of Convention.

[P. 118.] Adjourned to Monday next at 9 o'clock, A. M.

Monday, Feb<sup>y</sup>, 20<sup>th</sup>, 1792.

Convention met according to adjournment. Read the Report of the Committee of the whole, and voted to proceed in the following manner, (viz.) to take up the report of the Committee of Convention and the Committee of the whole, and determine thereon.

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[NOTE. The following appears to be the Report of the Committee of the whole, referred to on page 118 of the Journal: it is found in MS. Journal on pages 443-450, as follows.—ED.]

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The Committee of the whole, having taken under their consideration the Report of the Committee of Convention chosen in September last, and maturely deliberated thereon, agree to the following alterations in said Report, (viz.)

To strike out the 39<sup>th</sup> article in the Bill of Rights.

Under the head GENERAL COURT,

2<sup>d</sup> Paragraph—Strike out the word "third" and insert the word "first." Strike out the word "September" & insert the word "June."

5<sup>th</sup> Paragraph—Strike out the words "four sevenths," and insert the words "two thirds;" also, Strike out the words "a majority," and insert the words "two thirds" instead thereof.

8<sup>th</sup> Paragraph—Strike out the whole, and insert as follows:

"The doors of the Galleries of each House of the Legislature, shall be kept open to all persons who behave decently, except when the welfare of the State in the opinion of either Branch shall require secrecy."

## Under the head SENATE.

1<sup>st</sup> Paragraph—Strike out the word “twelve,” and insert the word “thirteen:” Strike out the words “two years,” and insert the words “one year:” Strike out “third Wednesday of September,” and insert “first Wednesday of June.”

2<sup>d</sup> Paragraph—Strike out the word “twelve” and insert the word “thirteen.”

3<sup>d</sup> Paragraph—Strike out the word “biennially,” and insert the word “annually.”

4<sup>th</sup> Paragraph—Strike out the words “every second year,” and insert “annually:” Strike out “paying for himself a poll tax or liable to pay poll tax or the amount thereof,” and insert, “excepting paupers and persons excused from paying taxes at their own request.”

6<sup>th</sup> Paragraph—Strike out.

7<sup>th</sup> Paragraph—Strike out the whole after the words “sealed up and directed,” and insert words necessary to make the method of returning &c. to read as in the present constitution.

9<sup>th</sup> Paragraph—Strike out the words “every second year,” and insert the word “annually.”

10<sup>th</sup>, 11<sup>th</sup>, & 12<sup>th</sup> Paragraphs rejected, and the same method to be pursued to determine the choice of Senators, when a majority of votes is wanting, as when a Governor has not a majority.

The last Paragraph was rejected.

Voted, That the Senate shall appoint their President and other officers, and determine their own rules of proceedings, and not *than* less than seven members of the Senate shall make a quorum for doing business; and when less than eight Senators shall be present, the assent of five at least shall be necessary to render their acts and proceedings valid.

The President of the Senate shall officiate as first magistrate in the absence of the Governor.

Under the head, HOUSE OF REPRESENTATIVES, the Proviso following the first Paragraph strike out.

## EXECUTIVE POWER.

## Under the head, GOVERNOR.

3<sup>d</sup> Paragraph—Strike out the whole after the words “the House,” and insert, “The Senate and House of Representatives shall, by joint ballot, elect one of the two persons having the highest number of votes, who shall be declared Governor.”

5<sup>th</sup> Paragraph—the words, “to meet at the place where the General Court shall be at that time sitting,” are to be inserted following the word “require.”

14<sup>th</sup> Paragraph—Strike out, and insert the following:

The Governor and Council shall have a compensation for their services, to be fixed Annually by the General Court early at their first session, which shall not be increased nor diminished during the time for which the Governor & Council shall have been elected.

The whole under the head LIEUT. GOVERNOR strike out.

## Under the head COUNCIL.

4<sup>th</sup> Paragraph strike out the word “third,” & insert “first.” Strike out the word “September” and insert “June.”



5<sup>th</sup> Paragraph—Strike out the words “Lieut. Governor.”

Begin the 6<sup>th</sup> paragraph with the word “And.”

The last paragraph respecting the order of Elections was not determined.

Under the head SECRETARY, Treasurer, Commissary &c. no alteration was made.

Under the head COUNTY TREASURER, &c. 2<sup>d</sup> paragraph insert the words “The manner of certifying the votes and,” following the word “alter.” Strike out “And also to” &c. and insert, “and also on the application of the major part of the Inhabitants of any County, to divide the same into two districts for registering of Deeds whenever it shall appear reasonable.”

Under the head JUDICIARY POWER.

The 1<sup>st</sup>, 2<sup>d</sup>, 4<sup>th</sup> & 5<sup>th</sup> paragraphs rejected, and the following voted:—

“It shall be the duty of the General Court to make a reform in the Judiciary system, that justice may be administered in a more cheap and expeditious manner than is now practised, and that no party shall have a Review after the cause has been determined against him twice by a Jury.

“The General Court are hereby impowered to make alterations in the power and jurisdiction of the Courts of Common Pleas and Courts of General Sessions respectively; or if they shall judge it necessary for the public good, to abolish those courts or either of them, and invest such other Courts as they may establish with the jurisdiction and powers now vested in the Courts of Common Pleas and Courts of General Sessions of the Peace, as the General Court may from time to time judge expedient for the due administration of Law and Justice.

“And it shall be the duty of the General Court to vest in such Court or Courts of Law as to them may appear expedient, the power of granting new trials, or a trial after judgment, either upon verdict of a Jury, default, non-suit, or complaint for affirmation of judgment in all cases when substantial justice has not been done (except as before excepted) in such manner and under such restrictions and regulations as to the General Court may appear for the public good; Provided application be made for such review or trial within one year from the rendition of judgment.”

3<sup>d</sup> Paragraph committed to a Sub Committee.

8<sup>th</sup> Paragraph, the words “or Judge of Probate” to follow the word “Court.” Strike out the words “sixty-five,” and insert the word “seventy.”

11<sup>th</sup> Paragraph, strike out the word “shall,” and the word “hereafter,” and the whole after the word “appoint.”

Under the head OATHS, & Subscriptions, Exclusions, &c.

1<sup>st</sup> Paragraph—Strike out the words “Lieut. Governor.”

5<sup>th</sup> Paragraph,—Strike the whole out.

10<sup>th</sup> Paragraph,—Strike out the words “Lieut. Governor.”

12<sup>th</sup> Paragraph—Strike out the words, “Collectors of Excise, Collector of taxes,” and insert “Collectors of Excise and State and Continental taxes hereafter appointed, and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts ” following “Naval officer.”

Strike out the words “Lieutenant Governor.”

14 Paragraph strike out.

15 Paragraph strike out.

The last Paragraph strike out and insert the following: "At the first annual or other meetings held for the choice of Representatives after seven years is expired from the time of the amendments to the Constitution having been Accepted, the Electors shall give their Representatives their opinion or Instructions in writing. Voted at the meeting relative to the propriety or necessity of calling a Convention to revise the Constitution, and if it shall appear to the General Court that it is the opinion of a major part of the people voting thereon to have the Constitution revised, it shall be their duty to call a Convention for that purpose, and the same method shall be observed at the end of every seven years afterwards: And the amendments which may be agreed on by such Convention shall be valid to all intents and purposes as part of this Constitution, when approved of by.....of the qualified voters present and voting in town meeting on the question."

N. B. A paragraph beginning "All Laws" &c. not acted upon.

Accepted the first five articles in the Bill of rights without any alteration.

6<sup>th</sup> Article debated and referred to Mr. Peabody, Mr. Walker & Mr. Livermore.

7<sup>th</sup> Accepted with this alteration: Strike out "United State[s] of America in Congress Assembled," and insert "Congress of the United States of America."

8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup> Articles were accepted without any alteration: 17<sup>th</sup> accepted—erasing the word "Assembly," and insert the word "Legislature."

18<sup>th</sup> accepted—erasing the words "those of," also the word "dye" and insert "offences."

19<sup>th</sup> accepted—erasing the word "citizen" and inserting "subject."

20<sup>th</sup> article erased, and the one received as reported by the Committee and inserted instead of the one erased. [See Report of Com., marg. p. 189.]

21<sup>st</sup>, 22<sup>d</sup>, 23<sup>d</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, 28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup>, 31<sup>st</sup>, 32<sup>d</sup>, 33<sup>d</sup>, and 34<sup>th</sup> rec<sup>d</sup>.

[P. 119.] 35<sup>th</sup> accepted, with striking out the words "or Superior."

36<sup>th</sup>, 37<sup>th</sup>, 38<sup>th</sup> accepted. 39<sup>th</sup> rejected.

Adjourned to 3 o'clock P. M. Met accordingly.

Proceed to the FORM OF GOVERNMENT.

First paragraph accepted with this alteration,—“of the State of New Hampshire,” erased, and the words “formerly called the Province of New Hampshire” [instead].



## GENERAL COURT.

1<sup>st</sup> paragraph accepted—2<sup>d</sup> accepted with erasing the words “third Wednesday of September,” and inserting the words “last Wednesday of October” in two places in the paragraph—which was determined by yeas and nays, and are as follows : 50 yeas,—46 nays.

3<sup>d</sup>, 4<sup>th</sup> accepted ; 5<sup>th</sup> accepted, striking out “four sevenths,” and inserting “two thirds ;” and striking out “a majority” and insert “two thirds.”

6<sup>th</sup> and 7<sup>th</sup> accepted ; 8<sup>th</sup> rejected and another inserted ; 9<sup>th</sup> accepted.

## SENATE.

5<sup>th</sup> Paragraph accepted with the alterations made in Committee of the whole.

Adjourned to 9 o'clock to-morrow morning.

Tuesday, Feb<sup>y</sup> 21<sup>st</sup>, 1792.

Convention met according to adjournment.

Proceeded to the consideration of the several remaining paragraphs under the head, SENATE. The 6<sup>th</sup> & 7<sup>th</sup> accepted, the 8<sup>th</sup> 9<sup>th</sup> & 10<sup>th</sup> rejected ; the 11<sup>th</sup> 12<sup>th</sup> & 13<sup>th</sup> accepted with some small alterations which were made in the proper place ; 14<sup>th</sup> accepted with some alterations which were inserted. [P. 120.] The last paragraph reported,—which was in the following words, viz., “Every officer whilst under impeachment shall be suspended from the exercise of the duties of his office unless the House of Representatives shall order otherwise ; but the trial shall be as speedy as the nature of the case will admit”—which paragraph was largely debated, and the yeas and nays called to determine thereon, and were as follows :

46 yeas—49 nays. So the motion was lost.

[P. 121.] Adjourned to 3 o'clock, P. M. Met accordingly.

Proceeded to the consideration of the several articles or Paragraphs under the head HOUSE OF REPRESENTATIVES.

On the 1<sup>st</sup> paragraph much debate ensued, and motion was made to strike out the words “three hundred,” and insert “two hundred and twenty-five” as the mean increasing number—to determine which the yeas & nays were called and were as follows :

19 yeas—79 Nays. So the motion was lost and no alteration was made in said article.

[P. 122.] The next paragraph contained in a *proviso* to prevent the number of Representatives being more than one hundred and ten at any one time hereafter, &c. was rejected. The remainder under said head was accepted till it comes to the paragraph respecting printing the Journal of the Gen<sup>l</sup> Court, & after some debate it was rejected as reported, and received as it stands in the Constitution, with the addition of the following words: "And all the public Acts" to follow the words, "General Court."

The following paragraph was added, "And any member of the Senate or House of Representatives shall have a right on motion made at the time for that purpose to have his protest or dissent with the reasons against any vote, resolve or Bill passed, entered on the Journals."

Proceeded to consider of the Paragraphs under the head,  
GOVERNOR (as reported).

The first paragraph was accepted and the 2<sup>d</sup> came under consideration, and it was voted, that an alteration be made, which was inserted in its place: the 3<sup>d</sup> came under consideration respecting Electors &c. and voted, that Mr. [P. 123.] Payne, Mr. Humphreys & Mr. Livermore be a Committee to make an arrangement of the several Paragraphs touching the Executive, and make them conformable to certain votes that have been passed in Convention.

Adjourned to 9 o'clock to-morrow morning.

Wednesday, Feb<sup>y</sup> 22<sup>d</sup>, 1792.

Convention met according to adjournment. Proceeded to consider of the Report of the Committee on the 6<sup>th</sup> Article in the Bill of rights—which after being fully debated, motion was made to accept the report:—on which motion the yeas and nays were called, and are as follows:

57 yeas—35 Nays. So the report was accepted.

[P. 124.] Accepted the report of the Committee on the last clause or paragraph under the head SENATE.

Proceeded to consider of the Report of the Committee, to consider of and report upon the whole under the head

GOVERNOR,

and accepted the same.

Proceeded to consider of the Paragraphs under the head



## COUNCIL,

and voted to erase the paragraph giving liberty in case there should be a new County to have an additional Counsellor—which was rejected.

Adjourned to 3 o'clock P. M. Met accordingly.

The following *Proviso* was taken under consideration: "Provided nevertheless, that the Legislature may if the publick good shall hereafter require it, divide the State into five Districts for the election of Counsellors, according to the numbers and taxes as nearly equal as may be, that one Counsellor may be chosen in each District:" which *Proviso* was accepted.

Voted That every nomination and appointment shall be signed by the Governor and Council, and every negative shall be signed by the Governor or Council who negatived the same.

Under the head

## SECRETARY, TREASURER, &amp;C.

received as reported by the Com<sup>tee</sup> of Convention. Report [P. 125.] of the Committee of the whole under the head COUNTY TREASURER, &c. was received as reported by the Committee. Under the head County Treasurer &c. the whole received as reported by the committee of the whole.

Under the head, JUDICIARY POWER received as reported by the Committee of the whole.

The paragraph under the head, CLERK of COURTS refer'd to Mr. Humphreys for an alteration.

Under the head, ENCOURAGEMENT of LITERATURE, the paragraph was accepted as reported.

Under the head OATHS & SUBSCRIPTIONS &c. accepted as reported.

Adjourned to 9 o'clock to-morrow morning.

Thursday, Feb<sup>y</sup>, 23<sup>d</sup>, 1792.

Convention met according to adjournment. Received the report under the head "Clerk of Courts"—which was as follows: "The Judges of the Courts, (those of Probate excepted,) shall appoint their respective Clerks during pleasure; and no such clerk shall be of Council in any cause in the Court of which he is clerk, nor shall he draw any writ originating a Civil Action."

[P. 126.] Proceeded to the paragraph which excludes certain officers from holding a seat in the Legislature, and motion was made to insert the words "Justices of the Peace;"—to determine which the yeas & nays were called, and are as follows:

34 yeas—62 nays. So the motion did not prevail.

[P. 127.] Motion was made to strike out the words "Judge of the Inferior Court of Common Pleas:"—but the motion was lost.

Motion was then made to strike out the words, "President, Professor or Instructor of any College"—which passed in the affirmative, and the words were struck out.

Voted, That when the Governor shall be tried on Impeachment the Chief Justice of the State shall preside in the Senate, but shall have no vote therein.

Voted, That Mr. Humphreys, Mr. Page & Mr. Newcomb be a Committee to report on the last paragraph in the Constitution.

Adjourned to 3 o'clock P. M. Met accordingly.

The Committee reported on the last Paragraph, which report was read and considered, received and accepted.

Voted That Mr. Cilley, Mr. Thompson, Mr. Atherton, Mr. Chase and Mr. Freeman be a Committee to consider and report in what way and manner the proceedings in Convention shall be printed and distributed to the several Towns; when the meetings in the Towns shall be held; the manner of the Towns making returns & the time and place where Convention shall hold their next session.

[P. 128.] The foregoing Committee reported: "That some person be appointed to agree with a printer to strike off . . . . .copies of the proceedings of Convention; that he superintend the Press; that he direct one copy to the Selectmen of each Town, parish and unincorporated place; that he bind up the copies belonging to each County in a separate bundle and direct and send them to the sheriffs of the respective Counties, accompanied with a letter directing the sheriff to send the copies of the several respective Towns &c. in the County without delay; that the meetings in the several towns throughout the State to consider and vote on the doings of the Convention, be held on the first Monday in May next, and that the Convention adjourn to meet again on the last Wednesday of said May, at Concord."



On reading and considering the foregoing report, it was Voted, That two persons be employed for the purpose mentioned.

Voted, That Mr. Thompson, Mr. Toppan & Mr. Peabody be a Committee to nominate four persons—two of whom to be appt<sup>d</sup> a Committee for said purpose.

Voted, That Mr. Page, Mr. Plummer & Mr. Livermore be a Committee to point out the manner in which the returns from the several Towns shall be made.

[P. 129.] Adjourned to 8 o'clock to-morrow morning.

Friday, Feb<sup>y</sup> 24<sup>th</sup>, 1792.

Convention met according to adjournment. The Committee to Nominate four persons, two of whom &c. nominated Mr. Pickering, Mr. Peabody, Mr. Walker & Doct<sup>r</sup> Sam<sup>l</sup> Tinney.

The Committee to whom was referred, to consider in what manner the returns &c. should be made, reported: "That the Articles of amendments be incorporated with the Constitution and printed: And the Articles of Amendment be numbered, and also printed with two blank columns on each page, with the amendments, and at the top of one column be printed the words, "Votes for the Amendments," and at the top of the other column be printed, "Votes against the Amendments:" That the returns be made by writing down against each particular Amendment the number of votes for the article or against the article, as the case may be, and that there be printed at the end of the articles a certificate in the following words, (viz.)

"I . . . . . Town clerk of . . . . . do hereby certify and attest, that the number of votes for and against each ar-  
[P. 130.] ticle of amendment as set down in each column against each particular article, is just and true as voted and taken in town meeting duly warned for that purpose, and held in the town of . . . . . in the County of . . . . . this . . . . . day of May, Anno Domini 1792.

. . . . . TOWN CLERK."

The Committee further report an order to be printed on the first page of the Articles of amendments as follows, (viz.)

"In Convention held at Concord the second Wednesday of Feb<sup>y</sup>, 1792, by adjournment, ordered that the Constitution, with the articles of amendment incorporated, be printed,

in order that the Constitution Amended be better understood; and the Articles of Amendments be also printed and sent to the several Towns and unincorporated places as soon as may be, to be laid before each Town and unincorporated place at a meeting of the Inhabitants duly warned for that purpose, to be held on the first Monday of May next, being the 7<sup>th</sup> day of s<sup>d</sup> month, to be separately voted [P. 131.] upon by the qualified voters present, and the Clerk of such Town or place shall seal up the articles of amendments with the number of votes written down for or against each particular article and cause return thereof to be made to the Convention at Concord on the last Wednesday in May next:”—which report was accepted.

Proceeded to elect two persons of the four nominated, and made choice of the Hon<sup>bl</sup> Timothy Walker, Esquire, and Doct<sup>r</sup> Sam<sup>l</sup> Tinney, to procure five hundred printed copies of the amendments &c., one copy for each Town, one for each member, and the remainder amongst some of the largest towns in the State; and directed to the several sheriffs to be by them distributed agreeably to a former Report.

Voted that the Secretary be directed to furnish the above Committee with an attested copy of the amendments and alterations, and also an attested copy of the Constitution, with the amendments and alterations incorporated.

Voted, That Mr. Plummer be requested to assist the Secretary in making out said copies.

[P. 32.] Adjourned to Wednesday, the 30<sup>th</sup> of May next then to meet at Concord.

NOTE BY THE EDITOR.

[Here follow, in order, *first*, the articles in addition to and in amendment of the constitution as sent out to the people; and *second*, the constitution with the said articles incorporated.]



ARTICLES IN ADDITION TO AND AMENDMENT OF THE CONSTITUTION OF THE STATE OF NEW HAMPSHIRE, AGREED TO BY THE CONVENTION OF SAID STATE, & SUBMITTED TO THE PEOPLE THEREOF FOR THEIR APPROBATION.

[See Pages 396-435, and 461-470 of the MS. Journal.]

NOTES BY THE EDITOR.

[In the numbering of the articles of amendment and alterations which follow, there is a slight discrepancy between the original manuscript of the Journal, and the printed form as sent out to the people. The editor has followed the latter in numbering the said articles. There is no discrepancy in the matter thereof, except that the last article, No. 72, is in the printed form as sent out to the people.]

[The following pages are a specimen of the form in which the amendments were sent out,—the votes for or against each amendment being set down in the ruled columns. It was judged unnecessary to put the rules on every page. The result is noted in the returns at the end.]

[The Articles of amendment are numbered as they were sent out to the people.—ED.]

Under the head BILL OF RIGHTS :

That the following be added to the 6<sup>th</sup> Article.

No. 1.

But this shall not be construed to free a person from the obligation of his own contract on his pretence of changing his religious persuasion after making the contract.

And whenever a minister is settled by any incorporated town or parish, any person dissenting, shall have liberty either at the meeting or previous to the ordination of the minister, or within one month after the vote obtained for his settlement, to enter his dissent with the town or parish clerk against paying or contributing toward the support of such minister ; & all minors, who after such settlement shall come of age, and all inhabitants of such town or parish who are absent from the same at the time of such meeting or settlement, and all persons who after such settlement move into such town or parish to reside, shall have three months from the time of their coming of full age, returning into town or moving in to reside, as aforesaid, respectively, to

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enter their dissent with the town or parish clerk as aforesaid.

And all persons who do not enter their dissent as aforesaid, shall be bound by the major vote of such town or parish, & it shall be considered as their voluntary contract: But all persons who enter their dissent as aforesaid shall not be bound by the vote of such town or parish, or considered as party to such contract, or in any way be compelled to contribute towards the support of the minister, nor shall any person be compelled to contribute towards the support of a minister who shall change from the sect or denomination of which he professed to be when he settled, to any other persuasion, sect or denomination.

No. 2.

Article 17<sup>th</sup>, That the word "Assembly" be expunged, & the word "Legislature" inserted.

No. 3.

Article 18<sup>th</sup>. That the words "those of," "dye," be expunged, & the word "offences" inserted.

No. 4.

Article 19<sup>th</sup>. To be expunged & the following substituted in lieu thereof: viz.

Every subject hath a right to be secure from all unreasonable searches & seizures of his person, his houses, his papers, & all his possessions; Therefore all warrants to search suspected places, or arrest a person for examination, or trial in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; & if the order in a warrant to a civil officer, to make search in 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; & no warrants ought to be issued but in cases, & with the formalities prescribed by law.

No. 5.

Article 20<sup>th</sup>. To be expunged and the following substituted in lieu thereof: viz.

In all controversies concerning property, and in all suits between two or more persons, excepting in cases wherein it hath been heretofore otherwise used and practised, the parties have a right to a trial by jury, and this right shall be deemed sacred and inviolable; but the Legislature may, by the Constitution, be empowered to make such regulations as will prevent parties from having as many trials by Jury in the same suit or action as hath been



heretofore allowed and practised; and to extend the civil jurisdiction of Justices of the Peace to the trial of suits where the sum demanded in damages doth not exceed four pounds, saving the right of appeal to either party;—But no such regulations shall take away the right of a trial by Jury in any case, not in this article before excepted, unless in cases respecting mariners wages.

## No. 6.

Article 31<sup>st</sup>, To be expunged & the following substituted in lieu thereof: viz.

The Legislature shall assemble for the redress of public grievances, and for making such laws as the public good may require.

## No. 7.

Article 35<sup>th</sup>, To be expunged and the following substituted in lieu thereof: viz.

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 impartial 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, that the Judges of the Supreme Judicial Court should hold their offices so long as they behave well, subject however to such limitations on account of age as may be provided by the Constitution of the State; & that they should have honorable salaries ascertained and established by standing laws.

Under the head GENERAL COURT.

## No. 8.

The Senate & House shall assemble every year on the last Wednesday of Octo<sup>r</sup>, & at such other times as they may Judge necessary & shall dissolve and be dissolved seven days next preceding the last Wednesday of October, & shall be stiled the GENERAL COURT OF NEW HAMPSHIRE.

## No. 9.

No member of the Gen<sup>l</sup> Court shall take fees, be of Council, or act as Advocate, in any cause before either branch of the Legislature; & upon due proof thereof such member shall forfeit his seat in the Legislature.

## No. 10.

The doors of the galleries of each House of the Legislature shall be kept open to all persons who behave decently, except when the welfare of the State in the opinion of either branch shall require secrecy.

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 SENATE.

## No. 11.

That the several paragraphs under the head of Senate be expunged, and the following be substituted in lieu thereof: viz.

The Senate shall consist of *thirteen* members who shall hold their office for one year from the last Wednesday of October next ensuing their election.

## No. 12.

And, that the State may be equally represented in the Senate, the Legislature shall from time to time divide the State into thirteen districts as nearly equal as may be, without dividing towns and unincorporated places; and in making this division they shall govern themselves by the proportion of public taxes paid by the said districts, and timely make known to the inhabitants of the State the limits of each district.

## No. 13.

The freeholders and other inhabitants of each district qualified as in this Constitution is provided, shall annually give in their votes for a Senator at some meeting holden in the month of March.

## No. 14.

The Senate shall be the first branch of the Legislature; and the Senators shall be chosen in the following manner, viz: Every male inhabitant of each town & parish with town privileges, and places unincorporated in this State, of twenty-one years and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right at the annual or other meetings of the inhabitants of said towns & parishes, to be duly warned & holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the Senators in the district whereof he is a member.

## No. 15.

*Provided nevertheless,* That no person shall be capable of being elected a Senator who is not seized of a freehold estate in his own right of the value of two hundred pounds, lying within this State, who is not of the age of thirty years, and who shall not have been an Inhabitant of this State for seven years immediately preceding his election; and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

## No. 16.

And every person qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in that town, parish and plantation where he dwelleth and hath his home.

## No. 17.

And the inhabitants of plantations and places unincorporated, qualified as this Constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government or shall be taxed therefor, shall have the same privilege of voting for Senators in the plantations & places wherein they reside, as the inhabitants of the respective towns & parishes aforesaid have. And the meetings of such plantations & places for that purpose, shall be holden annually in the month of March, at such places respectively therein, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting & returning the votes, as the Selectmen & Town Clerks have in their several towns by this Constitution.

## No. 18.

The meetings for the choice of Governor, Counsellors & Senators shall be warned by warrant from the Selectmen, & governed by a mod-



erator, who shall in the presence of the Selectmen (whose duty it shall be to attend) in open meeting receive the votes of all the inhabitants of such towns & parishes present & qualified to vote for Senators. & shall in said meetings, in presence of the said selectmen & of the town Clerk, in said meeting sort and count the said votes & make a public declaration thereof, with the name of every person voted for, & the number of votes for each person. And the town Clerk shall make a fair record of the same at large in the Town book & shall make out a fair attested copy thereof, to be by him sealed up and directed to the Secretary of the State, with a superscription expressing the purport thereof: And the said Town clerk shall cause such attested copy to be delivered to the sheriff of the County in which such town or parish shall lie forty days at least before the last Wednesday of October, or to the Secretary of the State at least thirty days before the said last Wednesday of October;—and the Sheriff of each County or his deputy shall deliver all such certificates by him received, into the Secretary's office at least thirty days before the last Wednesday of October.

## No. 19.

And, that there may be a due meeting of Senators on the last Wednesday of October annually, the Governor & a majority of the Council for the time being, shall as soon as may be, examine the returned copies of such records: & fourteen days before the said last Wednesday of October, he shall issue his summons to such persons as appear to be chosen Senators by a majority of votes, to attend & take their seats on that day: *Provided nevertheless*, that for the first year, the said returned copies shall be examined by the President & a majority of the Council then in office, and the said President shall in like manner notify the persons elected, to attend and take their seats accordingly.

## No. 20.

And, in case there shall not appear to be a Senator 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 & such Senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district; & out of these shall elect by joint ballot, the Senator wanting for such district; & in this manner all such vacancies shall be filled up in every district of the State; & 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 happen.

## No. 21.

The Senate shall be final judges of the elections, returns & qualifications of their own members as pointed out in this Constitution.

## No. 22.

The Senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time;—*Provided nevertheless*, That whenever they shall sit on the trial of any impeachment, they may adjourn to such time & place as they may think proper, although the Legislature be not assembled on such day or at such place.

## No. 23.

The Senate shall appoint their President & other officers, & determine

their own rules of proceeding : And not less than seven members of the Senate shall make a quorum for doing business ; & when less than eight Senators shall be present, the assent of five at least shall be necessary to render their acts and proceedings valid.

No. 24.

The Senate shall be a Court with full power & authority to hear, try & determine all impeachments made by the House of Representatives against any officer or officers of the State for bribery, corruption, mal-practice, or mal-administration in office, with full power to issue summons or compulsory process for convening witnesses before them, with all necessary powers incident to a Court of trials. But previous to the trial of any such Impeachment, the members of the Senate shall respectively be sworn, truly & impartially to try & determine the charge in question according to evidence. And every officer impeached for bribery, corruption, mal-practice or mal-administration in office, shall be served with an attested copy of the Impeachment & order of Senate thereon, with such citation as the Senate may direct, setting forth the time & place of their sitting, to try the impeachment ; which service shall be made by the sheriff or such other sworn officer as the Senate may appoint, at least fourteen days previous to the time of trial ; & such citation being duly served & returned, the Senate may proceed in the hearing of the Impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses & proofs, & of making his defence by himself & Council, & may also upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, & render Judgment thereon,—his non-appearance notwithstanding—& such Judgment shall have the same force & effect, as if the person impeached had appeared & pleaded on the trial. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit under this State ; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment & punishment, according to the laws of the land. Whenever the Governor shall be impeached, the Chief Justice of the Supreme Judicial Court, shall during the trial preside in the Senate, but have no vote therein.

Under the head HOUSE OF REPRESENTATIVES.

No. 25.

That the fifth Paragraph under this head be expunged & the following added :

All persons qualified to vote in the election of Senators shall be intitled to vote within the district where they dwell in the choice of Representatives. Every member of the House of Representatives shall be chosen by ballot ; & for two years at least next preceding his election, shall have been an inhabitant of this State ; shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold, whereof he is seized in his own right ; & shall be at the time of his election, an inhabitant of the district he may be chosen to represent, & shall cease to represent such district immediately on his ceasing to be qualified as aforesaid.

No. 26.

That the sixth article under said head be expunged & the following added :—



The members of both Houses of the Legislature shall be compensated for their services out of the Treasury of the State by a Law made for that purpose; such member attending seasonably & not departing without license. All intermediate vacancies in the House of Representatives, may be filled up from time to time in the same manner as annual elections are made.

## No. 27.

The House of Representatives shall be judge of the returns, elections, & qualifications of its members, as pointed out in this Constitution. That the last paragraph under the head of House of Representatives be expunged, & the following added; viz.

## No. 28.

The Journals of the proceedings, & all the public acts of both Houses of the Legislature, shall be printed & published immediately after every adjournment, or prorogation; and upon motion made by any one member, the yeas and nays upon any question, shall be entered in the Journals; And any member of the Senate or House of Representatives shall have a right, on motion made at the time for that purpose, to have his protest or dissent with the reasons against any vote, resolve or bill passed, entered on the Journals.

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 EXECUTIVE POWER.

## GOVERNOR.

## No. 29.

The Governor shall be chosen annually in the month of March, & the votes for Governor shall be received, counted, sorted, certified & returned in the same manner as the votes for Senators; & the Secretary shall lay the same before the Senate & House of Representatives, on the last Wednesday of October to be by them examined, and in case of an election by a majority of votes through the State, the choice shall be by them declared & published.

## No. 30.

And the qualifications of electors of the Governor shall be the same as those for Senators; and if no person shall have a majority of votes, the Senate & House of Representatives shall by joint ballot elect one of the two persons having the highest number of votes, who shall be declared Governor.

## No. 31.

And no person shall be eligible to this office, unless at the time of his election he shall have been an inhabitant of this State for seven years next preceding; & unless he shall be of the age of thirty years, and unless he shall at the same time, have an estate of the value of five hundred pounds, one half of which shall consist of a freehold in his own right within this State.

## No. 32.

In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the Governor, with advice of Council, shall have a right to adjourn or prorogue the General Court not exceeding seven months at any one time, as he may determine the

public good may require, to meet at the place where the Gen<sup>l</sup> Court shall be at that time sitting; and he shall dissolve the same seven days before the said last Wednesday of October.

No. 33.

And in case of any infectious distemper prevailing in the place where the said Court is to convene, or any other cause whereby dangers may arise to the health or lives of the members from their attendance, the Governor may direct the session to be holden at some other the most convenient place within the State.

No. 34.

Every bill, which shall have passed both Houses of the General Court, shall before it become a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent together with such objections to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of that House, it shall become 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 bill shall be entered on the Journal of each house respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature by their adjournment prevent its return;—in which case it shall not be a law.

No. 35.

Every resolve shall be presented to the Governor & before the same shall take effect, shall be approved by him, or, being disapproved by him shall be repassed by the Senate and House of Representatives, according to the rules & limitations prescribed in the case of a bill.

No. 36.

All Judicial officers, the Attorney General, Solicitors, all Sheriffs, Coroners, Registers of Probate, & all officers of the Navy, & General & field officers of the Militia, shall be nominated & appointed by the Governor & Council; & every such nomination shall be made at least three days prior to such appointment; & no appointment shall take place, unless a majority of the Council agree thereto. The Governor & Council shall have a negative on each other both in the nominations & appointments. Every nomination & appointment shall be signed by the Governor or Council; & every negative shall be also signed by the Governor or Council who made the same.

No. 37.

The Captains & Subalterns in the respective regiments shall be nominated by the field officers, & if approved by the Governor shall be appointed by him.

No. 38.

Whenever the Chair of the Governor shall become vacant by reason of his death, absence from the State or otherwise, the President of the



Senate, shall, during such vacancy, have and exercise all the powers and authorities which by this Constitution the Governor is vested with when personally present: But when the President of the Senate shall exercise the office of Governor, he shall not hold his office in the Senate.

## No. 39.

The several paragraphs under the head "President" in the Constitution, shall be altered by expunging the word "President," and inserting the word GOVERNOR in lieu thereof.

## No. 40.

And the second, third, fourth, sixth, ninth, sixteenth, and last paragraph, under the head "President" in the Constitution, shall be expunged, and be considered as no longer in force.

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 COUNCIL.

## No. 41.

The several paragraphs under the head Council in the Constitution shall be expunged, and the following substituted in lieu thereof:

There shall be annually elected by ballot five Councillors for advising the Governor in the Executive part of Government: The freeholders and other inhabitants in each county qualified to vote for Senators, shall some time in the month of March give in their votes for one Councillor;—which votes shall be received, sorted, counted, certified and returned to the Secretary's office, in the same manner as the votes for Senators, to be by the Secretary laid before the Senate and house of Representatives on the last Wednesday of October.

## No. 42.

And the person having a majority of votes in any County shall be considered as duly elected a Councillor: But if no person shall have a majority of votes in any County, the Senate and House of Representatives shall take the names of the two persons who have the highest number of votes in each County and not elected, and out of those two shall elect by joint ballot, the Councillor wanted for such County.

## No. 43.

*Provided nevertheless,* That no person shall be capable of being elected a Councillor, who has not an estate of the value of five hundred pounds, within this State, three hundred pounds of which or more shall be a freehold in his own right; and who is not thirty years of age, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time of his election an inhabitant of the County in which he is elected.

## No. 44.

The Secretary shall annually, seventeen days before the last Wednesday of October, give notice of the choice of the persons elected.

## No. 45.

If any person shall be elected Governor or member of either branch of the Legislature, and shall accept the trust, or if any person elected as

Councillor shall refuse to accept the office, or in case of the death, resignation, or removal of any Councillor out of the State, the Governor may issue a precept for the election of a new Councillor in that County where such vacancy shall happen, and the choice shall be in the same manner as before directed. The Governor shall have power and authority to convene the Council from time to time at his discretion, and with them or the majority of them, may and shall from time to time hold a Council for ordering and directing the affairs of the State according to the Law of the land.

No. 46.

The members of the Council may be impeached by the House and tried by the Senate for bribery, corruption, mal-practice or mal-administration. The resolutions and advice of the Council shall be recorded by the Secretary in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time, by either House of the Legislature; and any member of the Council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

No. 47.

The Legislature may, if the public good shall hereafter require it, divide the State into five districts as nearly equal as may be, governing themselves by the number of rateable polls & proportion of public taxes, each District to select a Councillor; and in case of such division, the manner of the choice shall be conformable to the present mode of election in Counties.

No. 48.

And whereas the elections appointed to be made by this Constitution on the last Wednesday of October 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 the elections shall be as follows: The vacancies in the Senate, if any, shall be first filled up; the Governor shall then be elected, provided there shall be no choice of him by the people, and afterwards the two houses shall proceed to fill up the vacancy, if any, in the Council.

Under the head SECRETARY, &c.

No. 49.

The Secretary of the State shall at all times have a deputy to be by him appointed, for whose conduct in office he shall be responsible, and in case of the death, removal or inability of the Secretary, his deputy shall exercise all the duties of the office of Secretary of this State until another shall be appointed.

No. 50.

The Secretary before he enters upon the business of his office, shall give bond with sufficient sureties in a reasonable sum for the use of the State, for the punctual performance of his trust.

COUNTY TREASURER, &c.

No. 51.

That the paragraph under this head in the Constitution be expunged, and the following substituted in the lieu thereof:



The County Treasurer and Register of Deeds, shall be elected by the inhabitants of the several Towns in the several Counties in the State, according to the method now practised and the laws of the State; *Provided nevertheless*, the Legislature [shall have authority] to alter the manner of certifying the votes and the mode of electing those officers, but not so as to deprive the people of the right they now have of electing them.

No. 52.

And the Legislature on the application of the major part of the inhabitants of any County shall have authority to divide the same into two districts, for registering deeds, if to them it shall appear necessary—each district to elect a Register of deeds.

No. 53.

The County Treasurer and Register of deeds before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond with sufficient sureties in a reasonable sum for the use of the County or District, for the punctual performance of their respective trusts.

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#### JUDICIARY POWER.

No. 54.

It shall be the duty of the General Court to make a reform in the Judiciary system, that justice may be administered in a more cheap and expeditious manner than is now practised; and that no party shall have a review after the cause has been determined against him twice by Jury.

No. 55.

The General Court are hereby empowered to make alterations in the power and jurisdiction of the Courts of common pleas and General Sessions of the peace respectively; or if they shall judge it necessary for the public good, to abolish those Courts, or either of them, and invest such other courts as they may establish, with the jurisdiction and powers now vested in the Courts of common pleas and Courts of General Sessions of the peace, as the General Court may from time to time judge expedient for the due administration of law and justice.

No. 56.

And it shall be the duty of the General Court to vest in such Court or Courts of law as to them may appear expedient, the power of granting new trials, or a trial after judgment, either upon verdict of a Jury, default, non-suit, or complaint for affirmation of judgment, in all cases where substantial justice has not been done (except as before excepted) in such manner and under such restrictions and regulations as to the General Court may appear for the public good;—*Provided*, application be made for such reviews or trial within one year from the rendition of judgment.

No. 57.

For the more effectually preserving the proper separation of the three great powers of Government agreeably to the 37<sup>th</sup> article in the Bill of rights, the power of hearing and deciding in causes of equity shall be vested either in some judicial Court or Courts, or in some Court to be

established specially for that purpose: *Provided*, no power shall be granted to any such Courts incompatible with the Bill of rights and Constitution; and the powers of said Courts shall be limited and defined by express laws—and no suit in equity shall be sustained where clear and adequate remedy may be had at law.

## No. 58.

The General Court are empowered to give to justices of the peace jurisdiction in civil causes when the damages demanded shall not exceed four pounds, and title of real estate is not concerned; but with right of appeal to either party to some other court, so that a trial by Jury in the last resort may be had.

## No. 59.

No person shall hold the office of Judge of any Court, or Judge of Probate, or Sheriff of any County after he has attained the age of seventy years.

## No. 60.

No Judge of any Court or justice of the peace shall act as attorney, or be of counsel to any party, or originate any civil suit in matters which shall come or be brought before [him] as judge or justice of the peace.

## No. 61.

All matters relating to the Probate of Wills and granting letters of administration, shall be exercised by the Judges of probate in such manner as the Legislature have directed or may hereafter direct—and the judges of probate shall hold their Courts at such place or places on such fixed days as the conveniency of the people may require, and the legislature from time to time appoint.

## No. 62.

No judge or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel in any probate business which is pending or may be brought into any Court of probate, in the county of which he is judge or register.

## No. 63.

That the paragraph under the head "CLERKS OF COURT" in the Constitution be expunged, and the following substituted:—viz.

## No. 64.

The Judges of the Courts (those of Probate excepted) shall appoint their respective Clerks, to hold their office during pleasure. And no such clerk shall act as an attorney, or be of council in any cause in the Court of which he is clerk, nor shall he draw any writ originating a civil action.

## No. 65.

That the paragraph in the Constitution under the head, "DELEGATES TO CONGRESS," be expunged.

## No. 66.

The Oath of allegiance in the Constitution shall be expunged, and the following shall be substituted in lieu thereof:



I, A. B. . . . . do solemnly swear that I will bear faith and true allegiance to the State of New Hampshire, and will support the Constitution thereof:—  
*So help me God.*

No. 67.

Any person having taken and subscribed the oath of allegiance shall not be obliged to take said oath again.

No. 68.

And the Oath or affirmations shall be taken and subscribed by the Governor before the President of the Senate, in presence of both houses of the Legislature, and by the Senators and Representatives first elected under this Constitution as amended and altered, before the President of the State and a majority of the Councillors then in office; and forever afterwards before the Governor and Council for the time being; and by all other officers, before such persons and in such manner as the Legislature shall from time to time appoint.

No. 69.

That the 15<sup>th</sup> paragraph in this Constitution under the head "Oaths & Subscriptions" &c. be expunged, and the following substituted in lieu thereof, viz. :

No. 70.

No person holding the office of Judge of any Court—except special Judges,—Secretary, Treasurer of the State, Attorney General, Commissary General, Military Officers receiving pay from the Continent or this State,—excepting officers of the militia occasionally called forth on an emergency,—Register of deeds, Sheriff or officer of the Customs, including Naval officers, Collectors of excise and State and Continental taxes hereafter appointed, and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of Congress or any person holding an office under the United States, shall at the same time hold the office of Governor, or have a seat in the Senate or House of Representatives or Council; but his being chosen and appointed to, and accepting the same, shall operate as a resignation of his seat in the Chair of the Senate or House of Representatives or Council, and the place so vacated shall be filled up. No member of the Council shall have a seat in the Senate or House of Representatives.

No. 71.

To the end that there may be no failure of justice or danger to the State by the alterations and amendments made in the Constitution, the General Court is hereby fully authorized and directed to fix the time when the Amendments and alterations shall take effect, and make the necessary arrangement accordingly. That the last paragraph in the Constitution be expunged, and the following substituted in lieu thereof, viz. :

No. 72.\*

It shall be the duty of the Selectmen and Assessors of the several towns and places in this State, in warning the first annual meeting for the choice of Senators, after the expiration of seven years from the

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\* This article in its present form was sent out with the revised and amended constitution, but the original is not found in the MS. Journal.—ED.

adoption of this Constitution as amended, to insert expressly in the warrant this purpose, among the others, for the meeting, to wit: To take the sense of the qualified voters on the subject of a revision of the Constitution: And the meeting being warned accordingly, and not otherwise, the Moderator shall take the sense of the qualified voters present, as to the necessity of a revision; and a return of the number of votes for and against such necessity, shall be made by the clerk, sealed up, and directed to the General Court, at their then next session; and if it shall appear to the General Court, by such returns, that the sense of the people of the State has been taken, and that in the opinion of the majority of the qualified voters in the State present, and voting at said meeting, there is a necessity for a revision of the Constitution, it shall be the duty of the General Court to call a Convention for that purpose; otherwise, the General Court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned. The delegates to be chosen in the same manner and proportioned as the representatives to the General Court:—*Provided*, that no alterations shall be made in this Constitution, before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present, and voting on the subject. And the same method of taking the sense of the people, as to the revision of the Constitution and calling a Convention for that purpose, shall be observed afterwards at the expiration of every seven years.

JOHN PICKERING,  
President, P. T.

Attest: JOHN CALFE, Secretary.

NOTE BY THE EDITOR.

[Here follows the amended Constitution, with the aforesaid alterations and amendments incorporated as sent out to the people in February, 1792; but, inasmuch as the several articles in the BILL OF RIGHTS (as before printed—pp. 71-76) were unaltered—except article 6<sup>th</sup>, with slight verbal alterations in 18<sup>th</sup> and 19<sup>th</sup>, and the rejection of the 39<sup>th</sup>,—it is deemed entirely unnecessary to repeat them. In what follows, under the head of Part II, the alterations and amendments are incorporated.]

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PART II.

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FORM OF GOVERNMENT.

The people inhabiting the territory formerly called the Province of New Hampshire, 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 *State of New Hampshire*.

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GENERAL COURT.

The Supreme Legislative Power, within this State, shall be vested in the Senate and House of Representatives, each of which shall have a negative on the other.



The Senate and House shall assemble every year on the last Wednesday of October, and at such other times as they may judge necessary; and shall dissolve, and be dissolved, seven days next preceding the said last Wednesday of October; and shall be stiled THE GENERAL COURT OF NEW HAMPSHIRE.

The General Court shall forever have full power and authority to erect and constitute Judicatories and Courts of Record, or other Courts, to be holden in the name of the State, for the hearing, trying, and determining, all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever, arising or happening within this State, or between or concerning persons inhabiting or residing, or brought within, the same, whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. 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.

And farther, 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, ordinances, directions, and instructions, either with penalties or without, so as the same be not repugnant or contrary to this Constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, 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 this State; such officers excepted, the election and appointment of whom are 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 State, 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 also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said State; and upon all estates within the same; to be issued and disposed of by warrant, under the hand of the Governor of this State 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 this State, 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 heretofore been practised; in order that such assessments may be made with equality, there shall be a valuation of the estates within the State taken anew once in every five years at least, and as much oftener as the General Court shall order.

No member of the General Court shall take fees, be of counsel, or act as advocate, in any cause before either branch of the Legislature; and upon due proof thereof, such member shall forfeit his seat in the Legislature.

The doors of the galleries of each house of the Legislature, shall be kept open to all persons who behave decently, except when the welfare of the State, in the opinion of either branch, shall require secrecy.

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#### SENATE.

The Senate shall consist of thirteen members, who shall hold their office for one year, from the last Wednesday of October next ensuing their election.

And that the State may be equally represented in the Senate, the Legislature shall from time to time, divide the State into thirteen districts as nearly equal as may be without dividing towns and unincorporated places; and in making this division, they shall govern themselves by the proportion of public taxes paid by the said districts, and timely make known to the inhabitants of the State the limits of each district.

The freeholders and other inhabitants of each district, qualified as in this Constitution is provided, shall annually give in their votes for a Senator, at some meeting holden in the month of March.

The Senate shall be the first branch of the Legislature; and the Senators shall be chosen in the following manner, viz. Every male inhabitant, of each town, and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right, at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the Senators in the county or district whereof he is a member.

*Provided nevertheless,* That no person shall be capable of being elected a Senator, who is not seized of a freehold estate, in his own right, of the value of two hundred pounds, lying within this State, who is not of the age of thirty years, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

And every person, qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish, and plantation, where he dwelleth and hath his home.

And the inhabitants of plantations and places unincorporated, qualified as this Constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for Senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the month of March, at such places respectively therein 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.

The meetings for the choice of Governor, Council, and Senators, shall be warned by warrant from the Selectmen, and governed by a Moderator, who shall, in the presence of the Selectmen, (whose duty it shall be to attend) in open meeting, receive the votes of all the



inhabitants of such towns and parishes present, and qualified to vote for Senators; and shall, in said meetings, in presence of the said Selectmen and of the Town Clerk, in said meeting, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person: And the Town Clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the Secretary of the State, with a superscription expressing the purport thereof: And the said Town Clerk shall cause such attested copy to be delivered to the Sheriff of the county in which such town or parish shall lie, forty days at least before the last Wednesday of October; or to the Secretary of the State at least thirty days before the said last Wednesday of October: And the Sheriff of each county, or his Deputy, shall deliver all such certificates by him received, into the Secretary's office, at least thirty days before the last Wednesday of October.

And that there may be a due meeting of Senators on the last Wednesday of October annually, the Governor, and a majority 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 last Wednesday of October, he shall issue his summons to such persons as appear to be chosen Senators, by a majority of votes, to attend and take their seats on that day.

*Provided nevertheless,* That for the first year the said returned copies shall be examined by the President, and a majority of the Council then in office; and the said President shall, in like manner, notify the persons elected, to attend and take their seats accordingly.

And in case there shall not appear to be a Senator 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 the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the Senator wanted for such district; and in this manner all such vacancies shall be filled up, in every district of the State; 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 happen.

The Senate shall be final judges of the elections, returns, and qualifications, of their own members, as pointed out in this Constitution.

The Senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

*Provided nevertheless,* That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the Legislature be not assembled on such day, or at such place.

The Senate shall appoint their President, and other officers, and determine their own rules of proceedings: And not less than seven members of the Senate shall make a quorum for doing business; and when less than eight Senators shall be present, the assent of five, at least, shall be necessary, to render their acts and proceedings valid.

The Senate shall be a Court, with full power and authority to hear, try, and determine, all impeachments made by the House of Representatives against any officer or officers of the State, for bribery, corrup-

tion, mal-practice, or mal-administration, in office; with full power to issue summons, or compulsory process, for convening witnesses before them, with all necessary powers incident to a Court of Trials; But previous to the trial of any such impeachment, the members of the Senate shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence. And every officer, impeached for bribery, corruption, mal-practice, or mal-administration, in office, shall be served with an attested copy of the impeachment, and order of Senate thereon, with such citation as the Senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the Sheriff, or such other sworn officer as the Senate may appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the Senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs, and of making his defence, by himself and counsel; and may also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit, under this State; but the party, so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to the laws of the land.

Whenever the Governor shall be impeached, the Chief Justice of the Supreme Judicial Court shall, during the trial, preside in the Senate, but have no vote therein.

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#### HOUSE OF REPRESENTATIVES.

There shall be, in the Legislature of this State, a representation of the people, annually elected, and founded upon principles of equality: And, in order that such representation may be as equal as circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age, and upwards, may elect one Representative; if four hundred and fifty rateable polls, may elect two Representatives; and so proceeding, in that proportion, making three hundred such rateable polls the mean increasing number, for every additional Representative.

Such towns, parishes, or places, as have less than one hundred and fifty rateable polls, shall be classed by the General Assembly, for the purpose of choosing a Representative, and seasonably notified thereof. And in every class, formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place, wherein most of the rateable polls reside; and afterwards in that which has the next highest number; and so on annually, by rotation, through the several towns, parishes, or places, forming the district.

Whenever any town, parish, or place, entitled to town privileges, as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place, very inconvenient, the General Assembly may, upon application of a majority of the voters in such town, parish, or place, issue a



writ for their electing and sending a Representative to the General Court.

The members of the House of Representatives shall be chosen annually, in the month of March, and shall be the second branch of the Legislature.

All persons, qualified to vote in the election of Senators, shall be entitled to vote, within the district where they dwell, in the choice of Representatives. Every member of the House of Representatives shall be chosen by ballot; and for two years, at least, next preceding his election, shall have been an inhabitant of this State; shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold, whereof he is seized in his own right; shall be, at the time of his election, an inhabitant of the district he may be chosen to represent; and shall cease to represent such district immediately on his ceasing to be qualified as aforesaid.

The members of both Houses of the Legislature shall be compensated for their services out of the treasury of the State, by a law made for that purpose; such members attending seasonably, and not departing without licence. All intermediate vacancies, in the House of Representatives, may be filled up, from time to time, in the same manner as annual elections are made.

The House of Representatives shall be the Grand Inquest of the State; and all impeachments made by them, shall be heard and tried by the Senate.

All money bills shall originate in the House of Representatives; but the Senate may propose, or concur with, amendments, as on other bills.

The House of Representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the House of Representatives shall be a quorum for doing business: But when less than two thirds of the Representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the House of Representatives, or Senate, shall be arrested, or held to bail, on mean process, during his going to, returning from, or attendance upon, the Court.

The House of Representatives shall choose their own Speaker, appoint their own officers, and settle the rules of proceedings in their own House; and shall be judge of the returns, elections, and qualifications, of its members, as pointed out in this Constitution. They shall have authority to punish, by imprisonment, every person who shall be guilty of disrespect to the House, in its presence, by any disorderly and contemptuous behavior, or by threatening, or ill treating, any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges, in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the House; in assaulting any witness, or other person, ordered to attend, by and during his attendance of the House; or in rescuing any person arrested by order of the House, knowing them to be such. The Senate, Governor, and Council, shall have the same powers in like cases; provided, that no imprisonment by either, for any offence, exceed ten days.

The journals of the proceedings, and all the public acts of both Houses of the Legislature, shall be printed and published immediately after every adjournment or prorogation; and upon motion made by any one member, the yeas and nays, upon any question shall be entered in the journals: And any member of the Senate, or House of Representatives, shall have a right, on motion made at the time for that purpose, to have his protest, or dissent, with the reasons, against any vote, resolve, or bill, passed, entered on the journals.

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## EXECUTIVE POWER.

### GOVERNOR.

THE Governor shall be chosen annually, in the month of March; and the votes for Governor shall be received, sorted, counted, certified and returned, in the same manner as the votes for Senators; and the Secretary shall lay the same before the Senate and House of Representatives, on the last Wednesday of October, to be by them examined; and in case of an election by a majority of votes through the State, the choice shall be by them declared and published.

And the qualifications of electors of the Governor shall be the same as those for Senators; and if no person shall have a majority of votes, the Senate and House of Representatives shall, by joint ballot, elect one of the two persons having the highest number of votes, who shall be declared Governor.

And no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this State for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall, at the same time, have an estate of the value of five hundred pounds, one half of which shall consist of a freehold, in his own right, within this State.

In cases of disagreement between the two Houses, with regard to the time or place of adjournment or prorogation, the Governor, with advice of council, shall have a right to adjourn or prorogue the General Court, not exceeding seven months at any one time, as he may determine the public good may require, to meet at the place where the General Court shall be at that time sitting; and he shall dissolve the same seven days before the said last Wednesday of October.

And, in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the Governor may direct the session to be holden at some other the most convenient place within the State.

Every bill which shall have passed both Houses of the General Court, shall, before it become a law, be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with such objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become 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 bill, shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return, in which case it shall not be a law.

Every resolve shall be presented to the Governor, and, before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

All judicial officers, the Attorney General, Solicitors, all Sheriffs, Coroners, Registers of Probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the Governor and Council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the Council agree thereto. The Governor and Council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the Governor and Council, and every negative shall be also signed by the Governor or Council who made the same.

The Captains and Subalterns, in the respective regiments, shall be nominated by the field officers, and if approved by the Governor, shall be appointed by him.

Whenever the chair of the Governor shall become vacant, by reason of his death, absence from the State, or otherwise, the President of the Senate shall, during such vacancy, have and exercise all the powers and authorities which, by this Constitution, the Governor is vested with, when personally present; but when the President of the Senate shall exercise the office of Governor, he shall not hold his office in the Senate.

The Governor, with advice of Council, shall have full power and authority, in the recess of the General Court, to prorogue the same from time to time, not exceeding seven months, in any one recess of said Court; and during the session of said Court, to adjourn or prorogue it to any time the two Houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the State should require the same.

The Governor of this State for the time being shall be commander in chief of the army and navy, and all the military forces of the State, by sea and land; and shall have full power by himself, or by any chief 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 this State, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this State; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, 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 State; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by the Legislature to exist, as occasion shall necessarily require: 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 State: And in fine, the Governor hereby is entrusted with all other powers incident to the office 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: Provided, that the 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 State, 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, nor grant commissions for exercising the law martial in any case, without the advice and consent of the Council.

The power of pardoning offences, except such as persons may be convicted of before the Senate, by 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 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.

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 State for the time being.

The commanding officers of the regiments shall appoint their Adjutants and Quarter-Masters; the Brigadiers, their Brigade-Majors; the Major-Generals, their Aids; the Captains and Subalterns, their non-commissioned officers.

The Governor and Council shall appoint all officers of the continental army, whom, by the confederation of the United States, it is provided that this State shall appoint; as also all officers of forts and garrisons.

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

No monies shall be issued out of the treasury of this State, and disposed of, (except such sums as may be appropriated for the redemption of bills of credit, or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, by and with the advice and consent of the Council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

All public boards, the Commissary-General, all superintending officers of public magazines and stores, belonging to this State, 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 under their care respectively; distinguishing the quantity and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the 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 harbor or harbors adjacent.

The Governor and Council shall be compensated for their services, from time to time, by such grants as the General Court shall think reasonable.

Permanent and honorable salaries shall be established by law, for the Justices of the Superior Court.

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### COUNCIL.

There shall be annually elected, by ballot, five Councillors, for advising the Governor in the executive part of government. The freeholders and other inhabitants in each county, qualified to vote for Senators, shall, some time in the month of March, give in their votes for one Councillor; which votes shall be received, sorted, counted, certified, and returned to the Secretary's office, in the same manner as the votes for Senators, to be by the Secretary laid before the Senate and House of Representatives on the last Wednesday of October.

And the person having a majority of votes in any county, shall be considered as duly elected a Councillor: But if no person shall have a majority of votes in any county, the Senate and House of Representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two shall elect, by joint ballot, the Councillor wanted for such county.

*Provided nevertheless,* That no person shall be capable of being elected a Councillor, who has not an estate of the value of five hundred pounds within this State, three hundred pounds of which (or more) shall be a freehold in his own right; and who is not thirty years of age; and who shall not have been an inhabitant of this State for seven years immediately preceding his election; and, at the time of his election, an inhabitant of the county in which he is elected.

The Secretary shall, annually, seventeen days before the last Wednesday of October, give notice of the choice of the persons elected.

If any person shall be elected Governor, or member of either branch of the Legislature, and shall accept the trust; or if any person, elected a Councillor, shall refuse to accept the office; or in case of the death, resignation, or removal of any Councillor out of the State; the Governor may issue a precept for the election of a new Councillor in that county where such vacancy shall happen; and the choice shall be in the same manner as before directed: And the Governor shall have full power and authority to convene the Council, from time to time, at his discretion; and, with them, or the majority of them, may, and shall, from time to time, hold a Council, for ordering and directing the affairs of the State, according to the laws of the land.

The members of the Council may be impeached by the House, and tried by the Senate, for bribery, corruption, mal-practice, or mal-administration.

The resolutions and advice of the Council shall be recorded by the Secretary, in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time, by either House of the Legislature; and any member of the Council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

The Legislature may, if the public good shall hereafter require it, divide the State into five districts, as nearly equal as may be, governing themselves by the number of rateable polls, and proportion of public taxes; each district to elect a Councillor: And, in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

And whereas the elections, appointed to be made by this Constitution, on the last Wednesday of October 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 may be completed; And the order of the elections shall be as follows—the vacancies in the Senate, if any, shall be first filled up: The Governor shall then be elected, provided there shall be no choice of him by the people: And afterwards, the two Houses shall proceed to fill up the vacancy, if any, in the Council.

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#### SECRETARY, TREASURER, COMMISSARY-GENERAL, &c.

THE Secretary, Treasurer, and Commissary-General shall be chosen by joint ballot of the Senators and Representatives assembled in one room.

The records of the State shall be kept in the office of the Secretary, and he shall attend the Governor and Council, the Senate and Representatives, in person, or by Deputy, as they may require.

The Secretary of the State shall, at all times, have a Deputy, to be by him appointed; for whose conduct in office he shall be responsible; And in case of the death, removal, or inability, of the Secretary, his Deputy shall exercise all the duties of the office of Secretary of this State, until another shall be appointed.

The Secretary, before he enters upon the business of his office, shall give bond, with sufficient sureties, in a reasonable sum, for the use of the State, for the punctual performance of his trust.

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#### COUNTY TREASURER, &c.

The County Treasurers, and Registers of Deeds, shall be elected by the inhabitants of the several towns, in the several counties in the State, according to the method now practised, and the laws of the State.

*Provided nevertheless,* The Legislature shall have authority to alter the manner of certifying the votes, and the mode of electing those officers; but not so as to deprive the people of the right they now have of electing them.

And the Legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary; each district to elect a Register of Deeds: And before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.



## JUDICIARY POWER.

It shall be the duty of the General Court to make a reform in the Judiciary System, that justice may be administered in a more cheap and expeditious manner than is now practised, and that no party shall have a review after the cause has been determined against him twice by Jury.

The General Court are hereby empowered to make alterations in the power and jurisdiction of the Courts of Common Pleas, and General Sessions of the Peace, respectively; or, if they shall judge it necessary for the public good, to abolish those Courts, or either of them, and invest such other Courts as they may establish, with the jurisdiction and powers now vested in the Courts of Common Pleas, and Courts of General Sessions of the Peace, as the General Court may, from time to time, judge expedient for the due administration of law and justice.

And it shall be the duty of the General Court, to vest in such Court or Courts of law as to them may appear expedient, the power of granting new trials, or a trial after judgment, either upon verdict of a Jury, default, nonsuit, or complaint, for affirmation of judgment, in all cases where substantial justice has not been done, except as before excepted, in such manner, and under such restrictions and regulations, as to the General Court may appear for the public good: Provided application be made for such review or trial within one year from the rendition of judgment.

For the more effectually preserving the proper separation of the three great powers of government, agreeably to the 37<sup>th</sup> Article in the Bill of Rights, the power of hearing and deciding in causes of equity, shall be vested either in some Judicial Court or Courts, or in some Court to be established specially for that purpose: Provided no power shall be granted to any such Courts, incompatible with the Bill of Rights and Constitution. And the powers of said Courts shall be limited and defined by express laws: And no suit in equity shall be sustained where clear and adequate remedy may be had at law.

The General Court are empowered to give to Justices of the Peace, jurisdiction in civil causes, when the damages demanded shall not exceed *four pounds*, and title of real estate is not concerned; but with right of appeal, to either party, to some other Court, so that a trial by Jury in the last resort may be had.

No person shall hold the office of Judge of any Court, or Judge of Probate, or Sheriff of any county, after he has attained the age of seventy years.

No Judge of any Court, or Justice of the Peace, shall act as Attorney, or be of counsel, to any party, or originate any civil suit, in matters which shall come or be brought before him as Judge, or Justice of the Peace.

All matters relating to the probate of wills, and granting letters of administration, shall be exercised by the Judges of Probate, in such manner as the Legislature have directed, or may hereafter direct: And the Judges of Probate shall hold their Courts at such place or places, on such fixed days, as the conveniency of the people may require, and the Legislature from time to time appoint.

No Judge, or Register of Probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any Court of Probate in the county of which he is Judge or Register.

## CLERKS OF COURT.

The Judges of the Courts (those of Probate excepted) shall appoint their respective Clerks, to hold their office during pleasure: And no such clerk shall act as an attorney, or be of counsel, in any cause in the Court of which he is Clerk, nor shall he draw any writ originating a civil action.

## ENCOURAGEMENT OF LITERATURE, &amp;c.

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and œconomy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.

*OATH and Subscriptions; Exclusion from Offices; Commissions; Writs; Confirmation of Laws; Habeas Corpus; the Enacting Stile; Continuance of Officers; Provision for a future Revision of the Constitution, &c.*

Any person chosen Governor, Councillor, Senator, or Representative, military or civil officer, (town officers excepted) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B., do solemnly swear, that I will bear faith and true allegiance to the State of New Hampshire, and will support the Constitution thereof.

*So help me God.*

I, A. B., do solemnly and sincerely 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, agreeably to the rules and regulations of this Constitution, and the laws of the State of New Hampshire.

*So help me God.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the Secretary's office, he shall not be obliged to take said oath again.

*Provided always,* When any person chosen or appointed as aforesaid, shall be of the denomination called Quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such shall take and subscribe them, omitting the word *swear*, and likewise the words *So help me God*, subjoining instead thereof, *This I do under the pains and penalties of perjury.*

And the oaths or affirmations shall be taken and subscribed by the Governor, before the President of the Senate, in presence of both Houses of the Legislature, and by the Senators and Representatives first elected under this Constitution, as altered and amended, before the



President of the State, and a majority of the Council then in office, and forever afterwards before the Governor and Council for the time being; and by all other officers, before such persons, and in such manner, as the Legislature shall from time to time appoint.

All commissions shall be in the name of the State of New Hampshire, signed by the Governor, and attested by the Secretary, or his Deputy, and shall have the great seal of the State affixed thereto.

All writs issuing out of the Clerk's office in any of the Courts of Law shall be in the name of the State of New Hampshire; shall be under the seal of the Court whence they issue, and bear test of the chief, first, or senior Justice of the Court; but when such Justice shall be interested, then the writ shall bear test of some other Justice of the Court, to which the same shall be returnable; and be signed by the Clerk of such Court.

All indictments, presentments, and informations, shall conclude, *against the peace and dignity of the State.*

The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, he henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

All the laws which have heretofore been adopted, used, and approved, in the Province, Colony or State of New Hampshire, and usually practised on in the Courts of Law, shall remain and be in full force, until altered and repealed by the Legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this Constitution: Provided that nothing herein contained, when compared with the 23d Article in the Bill of Rights, shall be construed to affect the laws already made respecting the persons, or estates, of absentees.

The privilege and benefit of the Habeas Corpus, shall be enjoyed in this State, 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 time not exceeding three months.

The enacting stile in making and passing acts, statutes, and laws, shall be—*Be it enacted by the Senate and House of Representatives, in General Court convened.*

No Governor, or Judge of the Supreme Judicial Court, shall hold any office or place under the authority of this State, except such as by this Constitution they are admitted to hold, saving that the Judges of the said Court may hold the offices of Justice of the Peace throughout the State; nor shall they hold any place or office, or receive any pension or salary, from any other State, government, or power, whatever.

No person shall be capable of exercising, at the same time, more than one of the following offices within this State, viz. Judge of Probate, Sheriff, Register of Deeds; and never more than two offices of profit, which may be held by appointment of the Governor, or Governor and Council, or Senate and House of Representatives, or Superior or Inferior Courts; military offices, and offices of Justices of the Peace, excepted.

No person holding the office of Judge of any Court, (except Special Judges) Secretary, Treasurer of the State, Attorney-General, Commis-

sary-General, military officers receiving pay from the continent or this State, (excepting officers of the militia, occasionally called forth on an emergency) Register of Deeds, Sheriff, or officers of the customs, including naval officers, Collectors of excise, and State and continental taxes, hereafter appointed, and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of Congress, or any person holding any office under the United States, shall at the same time hold the office of Governor, or have a seat in the Senate, or House of Representatives, or Council; but his being chosen and appointed to, and accepting the same, shall operate as a resignation of their seat in the chair, Senate, or House of Representatives, or Council; and the place so vacated shall be filled up. No member of the Council shall have a seat in the Senate or House of Representatives.

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

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.

To the end that there may be no failure of justice, or danger to the State, by the alterations and amendments made in the Constitution, the General Court is hereby fully authorized and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.

It shall be the duty of the Selectmen, and assessors, of the several towns and places in this State, in warning the first annual meeting for the choice of Senators, after the expiration of seven years from the adoption of this Constitution, as amended, to insert expressly in the warrant, this purpose, among the others for the meeting, to wit, to take the sense of the qualified voters on the subject of a revision of the Constitution; and the meeting being warned accordingly, and not otherwise, the Moderator shall take the sense of the qualified voters present, as to the necessity of a revision; and a return of the number of votes for and against such necessity, shall be made by the Clerk, sealed up, and directed to the General Court, at their then next session; and if it shall appear to the General Court by such return, that the sense of the people of the State has been taken, and that, in the opinion of the majority of the qualified voters in the State, present and voting at said meetings, there is a necessity for a revision of the Constitution, it shall be the duty of the General Court to call a Convention for that purpose, otherwise the General Court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned. The delegates to be chosen in the same manner, and proportioned, as the Representatives to the General Court; provided that no alterations shall be made in this Constitution, before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present and voting on the subject.

And the same method of taking the sense of the people, as to a revision of the Constitution, and calling a Convention for that purpose, shall be observed afterwards, at the expiration of every seven years.

This form of government shall be enrolled on parchment, and de-



posited in the Secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the books containing the laws of this State, in all future editions thereof.

JOHN PICKERING,  
*President, P. T.*

Attest, JOHN CALFE, Secretary.

Wednesday, May 30<sup>th</sup>, 1792.

Convention met according to adjournment.

Proceeded to the choice of a Committee for examining the Returns from the several Towns, and Mr. Calfe, Mr. Plummer & Mr. Thompson were chosen to report on said Returns.

Adjourned to 9 o'clock to-morrow morning.

Thursday May 31<sup>st</sup>, 1792.

Convention met according to adjournment. (The Committee not being ready to report) adjourned to 3 o'clock P. M. Met accordingly. Adjourned to 9 o'clock to-morrow morning.

Friday, June 1<sup>st</sup>, 1792.

Convention met according to adjournment.

The Committee appointed to examine the returns from the several Towns and report thereon, Reported in the following words, viz.

[P. 133.] "Your Committee have carefully entered and cast all the votes of the several Towns in this State agreeably to the numbers returned by the respective clerks for and against the amendments to the Constitution, and find them accepted or rejected as stated in the following list or schedule.

[A two-thirds vote was necessary for the acceptance of an amendment.—ED.]

	<i>For</i>	<i>Against.</i>		<i>For</i>	<i>Against.</i>	
No. 1	994....	3993....	Rejected	12	2407....	1478.....Reject <sup>d</sup> .
2	3760....	293....	Accepted	13	2624....	1219....Accepted
3	3567....	462.....	Do.	14	2722....	1102.....Do.
4	3336....	594.....	Do.	15	2300....	1500.....Reject <sup>d</sup>
5	2511....	1554....	Rejected	16	2542....	1174....Accepted
6	3080....	969....	Accepted	17	2763....	1065.....Acct <sup>pd</sup> .
7	3173....	914.....	Do.	18	2343....	1541.....Reject <sup>d</sup>
8	1627....	2226.....	Reject <sup>d</sup> .	19	2135....	1657.....Rejct <sup>d</sup>
9	4285....	219....	Accepted	20	2329....	1191.....Reje <sup>d</sup> .
10	4330....	144.....	Do	21	2693....	1034....Accepted
11	2128....	1846.....	Reject <sup>d</sup> .	22	2946....	813.....Do.

	<i>For</i>	<i>Against.</i>		<i>For</i>	<i>Against.</i>		
23	2565	1007	Accepted	48	2165	1248	Rejected
24	2868	800	Do.	49	2748	649	Accepted
25	2406	1255	Rejected	50	3284	371	Do.
26	2653	1120	Accepted	51	2391	1019	Do.
27	2883	489	Do.	52	2869	714	Do.
28	3087	460	Do.	53	3111	426	Do.
29	2018	1769	Rejected	54	2168	1368	Rejected
30	2475	1163	Accepted	55	1540	1911	Rejected
31	2203	1454	Rejected	56	2156	1192	Rejected
32	1920	1611	Rejected	57	1883	1340	Rejected
33	2659	1081	Accepted	58	2228	1103	Accepted
34	2319	1258	Rejected	59	2607	912	Do.
35	2183	1330	Rejected	60	3140	499	Do.
36	2327	1196	Rejected	61	2899	450	Do.
37	2077	1558	Rejected	62	3268	294	Do.
38	2422	1113	Accepted	63	2540	404	Do.
39	2467	1220	Do.	64	2905	439	Do.
40	2104	1270	Rejected	65	2852	302	Do.
134.]				66	3037	300	Do.
41	2287	1336	Rejected	67	3085	205	Do.
42	2553	1044	Accepted	68	2244	907	Do.
43	1929	1584	Rejected	69	2127	682	Do.
44	2102	1320	Rejected	70	2499	867	Do.
45	2356	1113	Accepted	71	3104	226	Do.
46	4623	820	Do.	72	3327	187	Do.
47	2384	1092	Do.				

Sign'd

JOHN CALFE  
EBEN<sup>r</sup>. THOMPSON  
WM. PLUMMER.

Voted, that Mr. Plummer, Mr. Thompson, Mr. Jere<sup>h</sup> Smith and Mr. Freeman be a Committee to take under consideration what is necessary to be done by the Convention with the Constitution, and the Report of the Committee this day made upon the amendments proposed : and report thereon.

Adjourned to 4 o'clock P. M. Met accordingly.

The Committee not being ready to report, Convention adjourned to 8 o'clock to-morrow morning.

Saturday, June 2<sup>d</sup>, 1792.

Convention met according to adjournment.

The Committee to take under consideration what is necessary to be done by the Convention with the Constitution and the Report of the Committee this day made upon the amendments proposed ;—Reported in the following words, (viz.)

“ Your Committee have carefully compared the several articles of amendments that are approved of by the people with the Constitution, and it appears that under the head Senate, the people have directed the



Senate to elect their own President, and authorized him to fill the chair of Governor when vacant, but when he exercises the office of Governor he shall not hold the office of President of the Senate: That they have made some additions to the Constitution under this head, but have not altered the number of Senators or the mode of their election.

“That under the head of Executive Power, the Stile of the Chief [P. 136.] Magistrate is changed from President to Governor; That he is not to preside in the Senate, but by the Constitution is to have a vote there with any other Senator, and a casting vote in case of a tie.

“That the paragraphs under the head Council in the Constitution are not expunged, yet several paragraphs of the Amendments are approved of that seem to recognize the election of Counsellors by the people and not by the Legislature; and that the people by a clause agreed upon in the Exclusion bill, have expressly prohibited the members of the Council from having a seat in the Legislature.

“That as to the other Articles of Amendments that are approved of, it appears that they are not inconsistent with the Constitution, except such parts of it as are thereby repealed: Your Committee therefore submit it to the consideration of the Convention, whether it is not necessary that some further articles of amendments respecting the Governor and Council should be again submitted to the people for their approbation.

Sign<sup>d</sup> WM. PLUMER, for the Committee.”

[P. 137.] Voted That the Convention Resolve themselves into a Committee of the whole, to take under consideration the Report of the Committee last mentioned. The Hon<sup>bl</sup> Timothy Walker Esq<sup>r</sup>. in the chair.

The Committee of the whole, having taken under consideration the Report of the Select Committee, after debate thereon came to the following resolution,—(viz.)

Resolved, that it is the opinion of this Committee that amendments to the Constitution be sent out to the people of this State for their approbation,—the amendments by the returns made to this Convention having been found on examination to be inconsistent with the Constitution and with each other.

The Committee then rose and the President took the chair. Report was then made by the Chairman to the President & Convention of the proceedings of the Committee of the whole:—which report was received and accepted.

Motion was then made to appoint a Committee for the purpose of draughting such amendments as may be judged necessary to be sent out to the people; which motion obtained, and that the s<sup>d</sup> Com<sup>tee</sup> consist of seven. The ballots [P. 138.] being taken and counted, Mr. Plummer, Mr. Walker, Mr. Jere<sup>h</sup>. Smith, Mr. Atherton, Mr. Thompson, Mr. Newcomb and Mr. Livermore were appointed the Committee.

Adjourned to Monday next at 10 o'clock, A. M.

Monday June 4, 1792.

Convention met according to adjournment.

The Committee appointed on Saturday last, reported (verbally) that a majority of the Committee were of opinion that the seeming inconsistency mentioned in the Report of the Committee of Saturday last, may be fairly reconciled, and therefore requested to be discharged. Motion being made and seconded for that purpose, it was put and the Committee discharged.

Motion was then made that such part of the amendments as are contained under the head Executive Power, as heretofore [P. 139.] sent out to the people, be again sent out for their acceptance, or rejection, with the alterations of the last Wednesday of October to the 1<sup>st</sup> Wednesday of June—which motion prevailed.

Adjourned to 3 o'clock, P. M. Met accordingly.

Motion was made that such part of the amendments as are contained under the head Council, as heretofore sent out to the people, with the alterations from the last Wednesday of October to the first Wednesday of June, and adding to what was then N<sup>o</sup>. forty-two, the following words: "And the qualifications for Counsellors shall be the same as for Senators:" and in the forty-fifth Number, the words, "be thus chosen a counsellor" to follow the word "person," be added, and the numbers forty-three and forty-four left out as rejected by the people—which motion prevailed.

Resolved, That a Committee be chosen to consider what further amendments to the Constitution are necessary to be sent out to the people. The Committee appointed are, Mr. Page (Charlestown) Mr. Hoit, & Mr. Livermore of Portsmouth, and that they prepare an address to accompany the amendments.\*

Adjourned to 7 o'clock to-morrow morning.

[P. 140.] Tuesday, June 5<sup>th</sup> 1792.

Convention met according to adjournment.

The Committee appointed to consider what further amendments are necessary to be sent out to the people, reported in the following words:

"The Committee to whom was referred to consider what further amendments to the Constitution are necessary to be sent to the People, &c. Report the following Articles, viz.

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\* The editor has searched in vain for an address as ordered to be sent out to the people.



[P. 142.]

## SENATE.

The Senate shall consist of twelve members, who shall hold their office for one year, from the first Wednesday of June next ensuing their election.

[P. 143.] And that the State may be equally represented in the Senate, the Legislature shall, from time to time, divide the State into twelve districts, as nearly equal as may be without dividing towns and unincorporated places; and in making this division, they shall govern themselves by the proportion of direct taxes paid by the said districts, and timely make known to the inhabitants of the State the limits of each district.

The freeholders and other inhabitants of each district, qualified as in this Constitution is provided, shall annually give in their votes for a Senator, at some meeting holden in the month of March.

The Senate shall be the first branch of the Legislature; and the Senators shall be chosen in the following manner, viz. Every male inhabitant, of each town, and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right, at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the Senator in the district whereof he is a member.

[P. 144.] *Provided nevertheless*, That no person shall be capable of being elected a Senator, who is not of the Protestant religion, and seized of a freehold estate, in his own right, of the value of two hundred pounds, lying within this State, who is not of the age of thirty years, and who shall not have been an inhabitant of this State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

And every person, qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish, and plantation, where he dwelleth and hath his home.

And the inhabitants of plantations and places unincorporated, qualified as this Constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for Senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the [P. 145.] month of March, at such places respectively therein 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.

The meetings for the choice of Governor, Council, and Senators, shall be warned by warrant from the Selectmen, and governed by a Moderator, who shall, in the presence of the Selectmen, (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and parishes present, and qualified to vote for Senators; and shall, in said meetings, in presence of the said Selectmen and of the Town Clerk, in said meeting, sort and count the said votes, and make a public

declaration thereof, with the name of every person voted for, and the number of votes for each person: And the Town Clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the Secretary of the State, with a superscription expressing the purport thereof: And the said Town Clerk shall cause such attested copy to be delivered to the sheriff of the county in which such town or parish [P. 146.] shall lie, thirty days at least before the first Wednesday of June; or to the Secretary of the State at least twenty days before the first Wednesday of June: And the Sheriff of each county, or his Deputy, shall deliver all such certificates by him received, into the Secretary's office, at least twenty days before the first Wednesday of June.

And, that there may be a due meeting of Senators on the first Wednesday of June annually, the Governor and a majority 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 first Wednesday of June, he shall issue his summons to such persons as appear to be chosen Senators, by a majority of votes, to attend and take their seats on that day.

*Provided nevertheless,* That for the first year the said returned copies shall be examined by the President, and a majority of the Council then in office; and the said President shall, in like manner, notify the persons elected, to attend and take their seats accordingly.

And in case there shall not appear to be a Senator elected, by a majority of votes, for any district, the deficiency shall be supplied in the [P. 147.] following manner, viz. The members of the House of Representatives, and such Senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the Senator wanted for such district; and in this manner all such vacancies shall be filled up, in every district of the State; 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 happen.

The Senate shall be final judges of the elections, returns, and qualifications, of their own members, as pointed out in this Constitution.

The Senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

*Provided nevertheless,* That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the Legislature be not assembled on such day, or at such place.

The Senate shall appoint their President, and other officers, and determine their own rules of proceedings: And not less than seven members of [P. 148.] the Senate shall make a quorum for doing business; and when less than eight Senators shall be present, the assent of five, at least, shall be necessary, to render their acts and proceedings valid.

The Senate shall be a Court, with full power and authority to hear, try, and determine, all impeachments made by the House of Representatives against any officer or officers of the State, for bribery, corruption, malpractice, or mal-administration, in office, with full power to issue summons or compulsory process, for convening witnesses before them: But previous to the trial of any such impeachment, the members of the



Senate shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence. And every officer, impeached for bribery, corruption, mal-practice, or mal-administration, in office, shall be served with an attested copy of the impeachment, and order of Senate thereon, with such citation as the Senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the Senate may appoint, at least fourteen [P. 149.] days previous to the time of trial; and such citation being duly served and returned, the Senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs, and of making his defence, by himself and counsel; and may also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit under this State; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to the laws of the land.

Whenever the Governor shall be impeached, the Chief Justice of the Supreme Judicial Court shall, during the trial, preside in the Senate, but have no vote therein.

[P. 151.] The Committee find that the following articles of amendments being approved by the people, are so unconnected with other articles that there is no necessity for again submitting them to the people [P. 152.] to be voted upon, viz.

The 2, 3, 4, 6, 7, 9, 10, 26, 27, 28, 39, 49, 50, 51, 52, 53, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72.

The Committee are of opinion that the Articles last mentioned be printed, that the People may be informed what is already ratified, and that the amendments now to be sent out be printed with the following Certificate at the end, viz.

I \_\_\_\_\_ town clerk of \_\_\_\_\_ do certify that at a legal meeting duly warned and held in the town of \_\_\_\_\_ in the county of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ Anno Domini, 1792, for the purpose of considering the foregoing amendments to the Constitution of the State of New Hampshire, as agreed upon in Convention, that there [P. 153] were \_\_\_\_\_ voters present who voted for the amendments and \_\_\_\_\_ voters present who voted against the amendments.

Attest, \_\_\_\_\_ Town Clerk.

The Committee are further of opinion that the following Resolve be printed with the amendments to be sent out, viz.

In Convention held at Concord the last Wednesday of May 1792, by adjournment:

Whereas upon examining the returns from the several Towns & unincorporated places, it appears that under the heads Senate, Governor & Council many articles are approved by two thirds of the voters, and many are not approved; by reason whereof said amendments are rendered inconsistent & contradictory, and the Convention not

having the power to reject what has been approved by the People as aforesaid:—

Therefore Resolved, that Articles be again sent out to be laid before the several towns and unincorporated places, on the 27<sup>th</sup> day of August next, that the whole may be approved or rejected; and that return thereof be made to the Convention on the 5<sup>th</sup> day of Sept. next, and that the articles which have been already approved by more than two thirds of the voters, and not inconsistent or contradictory, be printed, that it may be known what articles have been ratified by the People; and

Whereas, if the articles now sent out are not approved by two thirds [P. 155.] of the qualified voters, the last clause in the exclusion bill, which is in the words following,—“No member of the Council shall have a seat in the Senate or House of Representatives,” will be repugnant to other parts of the Constitution:—Therefore

Resolved, That an article be sent out for expunging said clause.

The Committee also report an Article for expunging part of the exclusion bill, which is as follows, viz.

The last clause in the exclusion bill which is in the words following, viz. “No member of the Council shall have a seat in the Senate or House of Representatives,” shall be expunged.

[P. 156.] All which is respectfully submitted, by

WM. PAGE,  
for the Committee.

Which report was read and considered, Rec<sup>d</sup> and accepted.

Resolved that a committee be appointed to report to the Convention, that part of the amendments to be sent out to the people, under the head EXECUTIVE, agreeably to the votes of the Convention.

The Committee, Mr. Plummer, Mr. Smith of Peterboro' and Mr. Livermore of Portsmouth.

The above named Committee reported in the following words:

#### EXECUTIVE POWER.

##### GOVERNOR.

There shall be a Supreme Executive Magistrate, who shall be stiled the GOVERNOR OF THE STATE OF NEW HAMPSHIRE, and whose title shall be his Excellency.

[P. 158.] The Governor shall be chosen annually, in the month of March; and the votes for Governor shall be received, sorted, counted, certified, and returned, in the same manner as the votes for Senators; and the Secretary shall lay the same before the Senate and House of Representatives, on the first Wednesday of June, to be by them examined; and in case of an election by a majority of votes through the State, the choice shall be by them declared and published.

And the qualifications of electors of the Governor shall be the same [P. 159.] as those for Senators; and if no person shall have a majority of votes, the Senate and House of Representatives shall, by joint ballot,



elect one of the two persons having the highest number of votes, who shall be declared Governor.

And no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this State for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall, at the same time, have an estate of the value of five hundred pounds, one half of which shall consist of a freehold, in his own right within this State, and unless he shall be of the Protestant religion.

In cases of disagreement between the two houses, with regard to the time or place of adjournment or prorogation, the Governor, with advice of Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said first Wednesday of June.

And in case of any infectious distemper prevailing in the place where [P. 160.] the said Court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the Governor may direct the session to be holden at some other the most convenient place within the State.

Every bill which shall have passed both Houses of the General Court, shall, before it become a law, be presented to the Governor, if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it; if, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with such objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become 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 bill, shall be entered on the Journal of each house respectively. If any bill shall not be returned by the Governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, [P. 161.] prevent its return, in which case it shall not be a law.

Every resolve shall be presented to the Governor, and, before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

All judicial officers, the Attorney General, Solicitors, all Sheriffs, Coroners, Registers of Probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the Governor and Council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the Council agree thereto. The Governor and Council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the Governor and Council, and every negative shall be also signed by the Governor or Council who made the same.

The Captains and Subalterns, in the respective regiments, shall be nominated and recommended by the field officers, to the Governor, who is to issue their commissions immediately on receipt of such recommendation.

[P. 162.] Whenever the chair of the Governor shall become vacant, by reason of his death, absence from the State, or otherwise, the President of the Senate shall, during such vacancy, have and exercise all the powers and authorities, which by this Constitution, the Governor is vested with, when personally present; but when the President of the Senate shall exercise the office of Governor, he shall not hold his office in the Senate.

The Governor, with advice of Council, shall have full power and authority, in the recess of the General Court, to prorogue the same from time to time, not exceeding ninety days, in any one recess of said Court; and during the session of said Court, to adjourn or prorogue it to any time the two Houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the State should require the same.

The Governor of this State for the time being shall be commander in chief of the army and navy, and all the military forces of the State, by sea and land: and shall have full power by himself, or by any chief commander, or other officer, or officers, from time to time, to train, [P. 163.] instruct, exercise and govern the militia and navy; and for the special defence and safety of this State, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this State; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, 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 State; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion, declared by the Legislature to exist, as occasion shall necessarily require: 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 State: And in fine, the Governor hereby is entrusted with all other powers incident to the office of Captain-General and Commander in Chief, and Admiral, to be exercised agreeably to the rules and regulations of the [P. 164.] Constitution, and the laws of the land: Provided, that the 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 State, 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, nor grant commissions for exercising the law martial in any case, without the advice and consent of the Council.

The power of pardoning offences, except such as persons may be convicted of before the Senate, by 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 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.

No officer duly commissioned to command in the militia shall be re-



moved 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 State for the time being.

The commanding officers of the regiments shall appoint their Adjutants and Quarter-Masters; the Brigadiers, their Brigade-Majors; the Major-Generals, their Aids; the Captains and Subalterns, their non-commissioned officers.

The Governor and Council shall appoint all officers of the continental army, whom, by the confederation of the United States, it is provided that this State shall appoint; as also all officers of forts and garrisons.

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

No monies shall be issued out of the treasury of this State, and disposed of, (except such sums as may be appropriated for the redemption of bills of credit, or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, by and with the advice and consent of the Council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

All public boards, the Commissary-General, all superintending officers of public magazines and stores, belonging to this State, 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 under their care respectively; distinguishing the quantity and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the 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 harbor or harbors adjacent.

The Governor and Council shall be compensated for their services, from time to time, by such grants as the General Court shall think reasonable.

Permanent and honorable salaries shall be established by law, for the Justices of the Superior Court.

WM. PLUMER  
for the Committee.

Which report being read and considered, Voted that it be received & accepted.

[P. 167.] Voted, that when the foregoing amendments shall become a part of the Constitution of this State, the several paragraphs now in the Constitution established 31<sup>st</sup> of October 1783, under the several heads, SENATE, EXECUTIVE POWER or PRESIDENT, and under the head COUNCIL, be considered as no longer in force.

Voted, That when the Convention adjourns, that it be to

meet again at Concord on the first Wednesday in September next.

Voted That Mr. Walker, Mr. Tinney & Mr. Calfe be a Committee to procure 500 copies of the Amendments agreed on by the Convention, to be sent to the people.

Voted, That the Secretary be desired to make out a copy of the articles and resolves agreed on to be sent out to the people as soon as may be, and employ some person to carry the same to the President for his signature, and to return the same to the Committee appointed to get the articles printed.

Adjourned to the first Wednesday in September next, then to meet at Concord, at 10 o'clock, A. M.

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[NOTE.—Agreeably to the abovesaid votes, the foregoing articles (taken from printed copy) were sent out to the people, in form as follows.]

ARTICLES IN ADDITION TO AND AMENDMENT OF THE CONSTITUTION OF THE STATE OF NEW HAMPSHIRE, AGREED TO BY THE CONVENTION OF SAID STATE, & SUBMITTED TO THE PEOPLE THEREOF FOR THEIR APPROBATION.

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In CONVENTION held at CONCORD, the last *Wednesday* of *May*, 1792, by *adjournment*.

*Whereas upon examining the returns from the several towns and unincorporated places, it appears that under the heads senate, governor and council, many articles are approved by two thirds of the voters; and many are not approved, by reason whereof said amendments are rendered inconsistant, and contradictory: And the convention not having the power to reject what has been approved by the people as aforesaid,*

*THEREFORE resolved,* That articles be again sent out to be laid before the several towns and unincorporated places, on the *twenty-seventh* day of *August* next, that the whole may be approved or rejected; and that return thereof be made to the convention on the *fifth* day of *September* next. And that the articles which have been already approved by more than two thirds of the voters, and not inconsistant or contradictory, be printed, that it may be known what articles have been ratified by the people.



AND whereas, if the articles now sent out are not approved by two thirds of the qualified voters, the last clause in the exclusion bill, which is in the following words, "No member of the council shall have a seat in the senate or house of representatives," will be repugnant to other parts of the constitution—*Therefore resolved*, That an article be sent out for expunging said clause.

## A R T I C L E .

"NO MEMBER of the council shall have a seat in the senate or house of representatives" shall be expunged.

## SENATE.

THE senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

AND that the State may be equally represented in the senate, the legislature shall, from time to time, divide the state into twelve districts, as nearly equal as may be without dividing towns and unincorporated places; and in making this division, they shall govern themselves by the proportion of direct taxes paid by the said districts, and timely make known to the inhabitants of the state the limits of each district.

THE freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

THE senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz. Every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this state, of twenty-one years of age and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right, at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district whereof he is a member.

*Provided nevertheless*, That no person shall be capable of being elected a senator, who is not of the *Protestant religion*, and seized of a freehold estate, in his own right, of the value of two hundred pounds, lying within this state, who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

AND every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in the town, parish, and plantation, where he dwelleth and hath his home.

AND the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually

in the month of March, at such places respectively therein 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.

THE meetings for the choice of governor, council, and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen, (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and parishes present, and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen, and of the town clerk, in said meeting, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person; And the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof: And the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which such town or parish shall lie, thirty days at least before the first Wednesday of June; or to the secretary of the state at least twenty days before the said first Wednesday of June: And the sheriff of each county, or his deputy, shall deliver all such certificates by him received, into the secretary's office, at least twenty days before the first Wednesday of June.

AND that there may be a due meeting of senators on the first Wednesday of June annually, the governor, and a majority 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 first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators, by a majority of votes, to attend and take their seats on that day.

*Provided nevertheless,* That for the first year the said returned copies shall be examined by the president, and a majority of the council then in office; and the said president shall, in like manner, notify the persons elected, to attend and take their seats accordingly.

AND in case there shall not appear to be a senator 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 the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district; and in this manner all such vacancies shall be filled up, in every district of the state; 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 happen.

THE senate shall be final judges of the elections, returns, and qualifications, of their own members, as pointed out in this constitution.

THE senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

*Provided nevertheless,* That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day, or at such place.

THE senate shall appoint their president, and other officers, and determine their own rules of proceedings: And not less than seven mem-



bers of the senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five, at least, shall be necessary, to render their acts and proceedings valid.

THE senate shall be a court, with full power and authority to hear, try, and determine, all impeachments made by the house of representatives against any officer or officers of the state, for bribery, corruption, mal-practice, or mal-administration, in office; with full power to issue summons, or compulsory process, for convening witnesses before them: But previous to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence. And every officer, impeached for bribery, corruption, mal-practice, or mal-administration, in office, shall be served with an attested copy of the impeachment, and order of senate thereon, with such citation as the senate may direct, setting forth the time and place of their setting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs, and of making his defence, by himself and counsel, & may also, upon his refusing or neglecting to appear hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit, under this state; but the party, so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to the laws of the land.

WHENEVER the Governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate, but have no vote therein.

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## EXECUTIVE POWER.

### GOVERNOR.

THERE shall be a Supreme Executive Magistrate, who shall be styled the Governor of the State of New Hampshire, and whose title shall be HIS EXCELLENCY.

THE Governor shall be chosen annually, in the month of *March*; and the votes for Governor shall be received, sorted, counted, certified and returned, in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday of June, to be by them examined, & in case of an election by a majority of votes thro' the state, the choice shall be by them declared and published.

AND the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a majority of votes, the senate and house of representatives shall, by joint ballot, elect one of the two persons having the highest number of votes, who shall be declared governor.

AND no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall, at the same time have an estate of the value of five hundred pounds, one half of which shall consist of a freehold, in his own right, within this state, and unless he shall be of the protestant religion.

IN cases of disagreement between the two houses, with regard to the time or place of adjournment or prorogation, the governor, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said first Wednesday of June.

AND, in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the governor may direct the session to be holden at some other the most convenient place within the state.

EVERY bill which shall have passed both houses of the general court, shall, before it become a law, be presented to the governor, if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become 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 bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

EVERY resolve shall be presented to the governor, and, before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

ALL judicial officers, the attorney-general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the council agree thereto. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council who made the same.

THE captains and subalterns, in the respective regiments, shall be nominated and recommended by the field officers to the governor who is to issue their commissions immediately on receipt of such recommendation.

WHENEVER the chair of the Governor shall become vacant, by reason of his death, absence from the state, or otherwise, the president of



the senate shall during such vacancy, have and exercise all the powers and authorities which, by this constitution the governor is vested with, when personally present; but when the president of the senate shall exercise the office of governor, he shall not hold his office in the senate.

THE governor, with advice of council, shall have full power and authority, in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days, in any one recess of said court; and during the session of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the state should require the same.

The governor of this state for the time being shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land; and shall have full power by himself, or by any chief 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 this state, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, 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 state; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by the legislature to exist, as occasion shall necessarily require: 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 state; and in fine, the governor hereby is entrusted with all other powers incident to the office 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: Provided, that the 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 state, 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, nor grant commissions for exercising the law martial in any case, without the advice and consent of the council.

THE power of pardoning offences, except such as persons may be convicted of before the senate, by 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 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.

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 State for the time being.

THE commanding officers of the regiments shall appoint their Adjutants and Quarter-masters; the Brigadiers, their Brigade-Majors; the Major Generals, their Aids; the Captains and Subalterns, their non-commissioned officers.

THE Governor and council shall appoint all officers of the continental army, whom, by the confederation of the United States, it is provided that this State shall appoint; as also all officers of forts and garrisons.

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

No monies shall be issued out of the treasury of this state, and disposed of, (except such sums as may be appropriated for the redemption of bills of credit, or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, by and with the advice and consent of the council, for the necessary support and defence of this state, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

ALL public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this state, 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 all small arms, with their accoutrements, and of all other public property under their care respectively; distinguishing the quantity and kind of each, as particularly as may be; together with the condition of such forts and garrisons: and the 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 harbor or harbors adjacent.

THE Governor and council shall be compensated for their services, from time to time, by such grants as the general court shall think reasonable.

PERMANENT and honorable salaries shall be established by law, for the Justices of the Superior Court.

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#### COUNCIL.

THERE shall be annually elected, by ballot, five councillors, for advising the governor in the executive part of government. The freeholders and other inhabitants in each county, qualified to vote for senators, shall some time in the month of March, give in their votes for one councillor; which votes shall be received, sorted, counted, certified, and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

AND the person having a majority of votes in any county, shall be considered as duly elected a councillor: But if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two shall



elect by joint ballot, the councillor wanted for such county, and the qualifications for councillors shall be the same as for senators.

IF any person thus chosen a councillor, shall be elected governor, or member of either branch of the legislature, & shall accept the trust: or if any person elected a councillor, shall refuse to accept the office; or in case of the death, resignation, or removal of any councillor out of the state: the Governor may issue a precept for the election of a new councillor in that county where such vacancy shall happen; and the choice shall be in the same manner as before directed: And the Governor shall have full power and authority to convene the council, from time to time, at his discretion; and, with them, or the majority of them, may, and shall, from time to time, hold a council, for ordering and directing the affairs of the state, according to the laws of the land.

THE members of the council may be impeached by the house, and tried by the senate, for bribery, corruption, mal-practice, or mal-administration.

THE resolutions and advice of the council shall be recorded by the secretary, in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time, by either house of the legislature; and any member of the council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

THE legislature may, if the public good shall hereafter require it, divide the state into five districts, as nearly equal as may be, governing themselves by the number of rateable polls, and proportion of public taxes; each district to elect a councillor: And, in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

AND whereas the elections, appointed to be made by this constitution, on the first Wednesday of June 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 be completed: and the order of the elections shall be as follows—the vacancies in the senate, if any, shall be first filled up: The governor shall then be elected, provided there shall be no choice of him by the people: And afterwards, the two houses shall proceed to fill up the vacancy, if any, in the council.

WHEN the foregoing amendments shall become a part of the constitution of this state the several paragraphs now in the constitution, established the thirty first day of October 1783, under the several heads, Senate, Executive Power, or President; and under the head Council, be considered as no longer in force.

IN convention, voted, that the amendments now to be sent out, be printed with the following certificate at the end, viz.

*I ——— town clerk of ——— do certify, that at a legal meeting duly warned and held in the town of ——— in the county of ——— this ——— day of ——— anno domini 1792, for the purpose of considering the foregoing amendments, to the constitution of the state of New Hampshire, as agreed upon in convention; that there were ——— voters present who voted for the amendments, and ——— voters present who voted against the amendments.*

*Attest:*

*————— Town Clerk.*

IN Convention resolved, that the following articles of amendments being approved by the people, are so unconnected with other articles, that there is no necessity for again submitting them to the people, to be voted upon, viz. The 2. 3. 4. 6. 7. 9. 10. 26. 27. 28. 39. 49. 50. 51. 52. 53. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. but that said articles be printed, that the people may be informed what is already ratified.

## II.

THAT the word assembly, be expunged, and the word legislature inserted.

## III.

THAT the words "*those of*" be expunged, and the word "*dye*" be expunged, and the word "*offences*" inserted.

## IV.

EVERY subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers and all his possessions—therefore all warrants to search suspected places, or arrest a person for examination, or trial in prosecutions for criminal matters, 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 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 or seizure; and no warrant ought to be issued but in case, and with the formalities prescribed by law.

## VI.

THE legislature shall assemble for the redress of public grievances and for making such laws as the public good may require.

## VII.

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 impartial 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, that the judges of the supreme judicial court should hold their office so long as they behave well; subject however to such limitations on account of age as may be provided by the constitution of the state, and that they should have honorable salaries ascertained and established by standing laws.

## IX.

NO member of the general court shall take fees, be of council, or act as advocate in any cause before either branch of the legislature, and upon due proof thereof, such member shall forfeit his seat in the legislature.

## X.

THE doors of the galleries of each house of the legislature, shall be kept open to all persons who behave decently, except when the welfare of the state in the opinion of either branch shall require secrecy.



## XXVI.

THE members of both houses of the legislature shall be compensated for their services out of the treasury of the state, by a law made for that purpose, such members attending seasonably, and not departing without licence.

ALL intermediate vacancies in the house of representatives may be filled up from time to time, as the annual elections are made.

## XXVII.

THE house of representatives shall be judge of the returns, elections, and qualifications of its members; as pointed out in this constitution.

## XXVIII.

THE journals of the proceedings, and all public acts of both houses of the legislature shall be printed and published immediately after every adjournment or prorogation: And upon motion made by any one member the yeas and nays upon any question shall be entered on the journals; and any member of the senate or house of representatives shall have a right on motion made at the time for that purpose to have his protest or dissent with the reasons against any vote, resolve or bill passed, entered on the journals.

## XXXIX.

THE several paragraphs under the head President in the constitution shall be altered by expunging the word President, and inserting the word Governor in lieu thereof.

## XLIX.

THE Secretary of the State shall at all times have a deputy to be by him appointed, for whose conduct in office he shall be responsible, and in case of death, removal or inability of the Secretary, his deputy shall exercise all the duties of the office of Secretary of this state, until another shall be appointed.

## L.

THE Secretary before he enters upon the business of his office, shall give bond with sufficient sureties in a reasonable sum, for the use of the state, for the punctual performance of his trust.

## LI.

THE county treasurer and register of deeds shall be elected by the inhabitants of the several towns in the several counties in the state, according to the method now practiced, and the laws of the state: provided nevertheless, the legislature shall have authority to alter the manner of certifying the votes & the mode of electing those officers, but not so as to deprive the people of the right they now have of electing them.

## LII.

AND the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds if to them it shall appear necessary, each district to elect a register of deeds.

## LIII.

THE county treasurer and register of deeds before they enter upon the business of their offices shall be respectively sworn faithfully to discharge the duties thereof, and severally give bond with sufficient sureties in a reasonable sum for the use of the county or district, for the punctual performance of their respective trusts.

## LVIII.

THE general court are empowered to give to justices of the peace jurisdiction in civil causes where the damages demanded shall not exceed four pounds, and title of real estate is not concerned, but with right of appeal to either party to some other court, so that a trial by jury in the last resort may be had.

## LIX.

NO PERSON shall hold the office of judge of any court, or judge of probate, or sheriff of any county after he has attained the age of seventy years.

## LX.

NO JUDGE of any court, or justice of the peace shall act as attorney, or be of counsel to any party, or originate any civil suit in matters which shall come or be brought before him as a judge or justice of the peace.

## LXI.

ALL matters relating to the probate of wills, and granting of letters of administration shall be exercised by the judges of probate in such manner as the legislature have directed, or may hereafter direct. And the judges of probate shall hold their courts at such place or places on such fixed days as the conveniency of the people may require, and the legislature from time to time appoint.

## LXII.

NO JUDGE or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel in any probate business which is pending or may be brought into any court of probate in the county of which he is judge or register.

## LXIII.

THAT the paragraphs under the head of clerks of courts, in the constitution, be expunged, and the following substituted.

## LXIV.

THE judges of the courts, those of the probate excepted, shall appoint their respective clerks, to hold their office during pleasure, and no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

## LXV.

THAT the paragraphs in the constitution under the head Delegates to Congress be expunged.



## LXVI.

THE oath of allegiance in the constitution shall be expunged and the following substituted in lieu thereof, viz.

I A. B. do solemnly swear, that I will bear faith and true allegiance to the State of New Hampshire, and will support the constitution thereof. So help me God.

## LXVII.

ANY person having taken and subscribed the oath of allegiance shall not be obliged to take said oath again.

## LXVIII.

AND the oaths or affirmations shall be taken and subscribed by the Governor before the President of the senate in presence of both houses of the legislature, and by the senators and representatives first elected under this constitution as amended and altered, before the President of the state, and a majority of the council then in office, and forever afterwards before the Governor and council for the time being, and by all other officers, before such persons, and in such manner as the legislature shall from time to time appoint.

## LXIX.

THAT the fifteenth paragraph in the constitution, under the head Oaths, Subscriptions, &c. be expunged and the following substituted in lieu thereof.

## LXX.

No person holding the office of judge of any court (except special judges) Secretary, Treasurer of the state, attorney general, commissary general, military officers, receiving pay from the Continent or this state excepting officers of the militia, occasionally called forth on an emergency, Register of deeds, sheriff or officer of the customs, including naval officers, Collectors of excise, and state and continental taxes hereafter appointed and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of Congress, or any person holding an office under the United States, shall at the same time hold the office of Governor, or have a seat in the senate or house of representatives or council, but his being chosen and appointed to and accepting the same shall operate as a resignation of his seat in the chair, senate, or house of representatives or council, and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or of house of representatives.

## LXXI.

To the end that there may be no failure of justice, or danger to the state by the alterations and amendments made in the constitution, the general court is hereby fully authorized and directed to fix the time when the amendments and alterations shall take effect; and make the necessary arrangements accordingly.

THAT the last paragraph in the constitution be expunged, and the following substituted in lieu thereof, viz.

## LXXII.

IT shall be the duty of the selectmen and assessors of the several towns and places in this state, in warning the first annual meeting for the choice of senators, after the expiration of seven years from the adoption of this constitution, as amended to insert expressly in the warrant, this purpose among the others, for the meeting, to wit : to take the sense of the qualified voters on the subject of a revision of the constitution. And the meeting being warned accordingly and not otherwise, the moderator shall take the sense of the qualified voters present, as to the necessity of a revision, and a return of the number of votes for, and against such necessity, shall be made by the clerk, sealed up and directed to the general court at their then next session. And if it shall appear to the general court by such returns, that the sense of the people of the state has been taken and that in the opinion of the majority of the qualified voters, in the state present, and voting at said meetings, there is a necessity for a revision of the constitution; it shall be the duty of the general court to call a convention for that purpose, otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned.

THE delegates to be chosen in the same manner, and proportioned as the representatives to the general court; provided, that no alterations shall be made in this constitution, before the same shall be laid before the towns and unincorporated places; and approved by two thirds of the qualified voters present, and voting on the subject.—And the same method of taking the sense of the people, as to the revision of the constitution, and calling a convention for that purpose; shall be observed afterwards at the expiration of every seven years.

SAMUEL LIVERMORE, *President*.

Attest: JOHN CALFE, *Secretary*.

[P. 168.]                      Wednesday, Sept<sup>r</sup> 5<sup>th</sup> 1792.

Convention met according to adjournment.

Voted, That Mr. Newcomb, Mr. Plummer and Mr. Foster be a Committee to examine the returns from the several Towns and places in this State, and make report thereon.

Adjourned to 9 o'clock to-morrow morning.

Thursday, Sept<sup>r</sup> 6<sup>th</sup>, 1792.

Convention met according to adjournment.

The Committee appointed to examine the returns from the several Towns and places in the State, of the votes for and against the amendments to the Constitution, REPORT,

That they find the whole number of votes returned to be three thousand and one hundred—of which, two thousand one hundred and twenty two are for said Amendments, and nine hundred and seventy eight against them;—by which it appears that said Amendments are accepted by more than two thirds of the voters who voted thereon.

Sign'd

DAN<sup>l</sup>. NEWCOMB,  
for Committee.

Which report was read & considered, rec<sup>d</sup> and accepted.



[P. 169.] The returns from the several Towns in this State for and against the proposed amendments, were as follows, (viz.)

COUNTY OF ROCKINGHAM.

Names of Towns.	Votes for.	Ags't.	Names of Towns.	Votes for.	Ags't.
Allenstown,	.....	.....	Newington,	12	2
Atkinson,	0	7	New Market,	.....	.....
Bow,	.....	.....	New Castle,	.....	.....
Brentwood,	0	33	Newtown,	.....	.....
Candia,	5	0	Northfield,	.....	.....
Canterbury,	53	0	North Hampton,	22	0
Chester,	6	27	Northwood,	18	3
Chichester,	.....	.....	Nottingham,	41	0
Concord,	12	64	Pelham,	0	20
Deerfield,	19	9	[P. 170.] Pembroke,	16	2
East Kingston,	.....	.....	Plastow,	.....	.....
Epping,	2	98	Poplin,	0	14
Epsom,	31	0	Portsmouth,	32	0
Exeter,	0	59	Pittsfield,	.....	.....
Greenland,	16	0	Raymond,	0	28
Hampstead,	30	4	Rye,	19	2
Hampton,	0	25	Salem,	9	1
Hawke,	.....	.....	Sandown,	5	13
Hampton-Falls,	0	10	Seabrook,	11	2
Kensington,	41	0	South Hampton,	.....	.....
Kingstown,	5	0	Stratham,	1	33
Londonderry,	50	0	Windham,	4	0
Loudon,	38	14			

COUNTY OF STRAFFORD.

Barnstead,	11	2	Middletown,	.....	.....
Barrington,	31	0	[P. 171.] Moultonboro',	16	0
Conway,	63	0	New Durham,	14	0
Dover,	24	43	New Durham Gore,	.....	.....
Durham,	29	0	New Hampton,	9	2
Eaton,	18	2	Ossippee,	.....	.....
Effingham,	.....	.....	Rochester,	14	0
Gilmantown,	41	0	Sanbornton,	30	0
Lee,	10	1	Sandwich,	21	0
Locations,	.....	.....	Sommersworth,	14	1
S. Stark,	.....	.....	Tamworth,	.....	.....
A. Stark,	.....	.....	Tuftonborough,	.....	.....
Hugh Sterling,	.....	.....	Wakefield,	18	0
Madbury,	.....	.....	Wolfborough,	.....	.....
Merrideth,	25	1			

## COUNTY OF HILLSBOROUGH.

Towns.	For.	Ags't.	Towns.	For.	Ags t.
Amherst,	33	0	[P. 172.] Keasearge Gore,	.....	.....
Andover,	.....	.....	Litchfield,	20	0
Antrim,	8	0	Lyndeborough,	31	1
Bedford,	34	0	Mason,	30	0
Boscawen,	.....	.....	Merrimac,	.....	.....
Bradford,	34	0	New Boston,	26	2
Campbell's Gore.	.....	.....	New Ipswich,	49	1
Dearing,	.....	.....	New London,	1	28
Derryfield,	.....	.....	Nottingham West,	0	21
Dunbarton,	.....	.....	Peterborough,	.....	.....
Dunstable,	.....	.....	Salisbury,	4	8
Duxbury,	.....	.....	Society Land,	.....	.....
Fishersfield,	.....	.....	Sutton,	.....	.....
Francestown,	39	0	Temple,	0	61
Goffstown,	11	2	Warner,	2	14
Hancock,	7	4	Weare,	10	1
Hinnekar,	7	5	Wilton,	37	0
Hillsborough,	16	0	Greenfield,	0	30
Holles,	55	0	Sharon,	0	22
Hopkintown,	0	22	Raby,	.....	.....

## COUNTY OF CHESHIRE.

Acworth,	19	0	New Grantham,	.....	.....
Alstead,	21	0	Newport,	14	0
Charlestown,	15	10	Packersfield,	17	1
Chesterfield,	20	4	Plainfield,	11	0
Claremont,	35	0	Protectworth,	.....	.....
Cornish,	12	0	Richmond,	28	0
Croydon,	.....	.....	Rindge,	39	0
Dublin,	22	0	Stoddard,	12	3
Fitz William,	0	37	Surry,	.....	.....
Gilson,	.....	.....	Sullivan,	19	0
Hinsdale,	.....	.....	Swanzy,	32	2
Jaffrey,	4	20	Unity,	0	7
[P. 173.] Keene,	90	0	Walpole,	41	0
Langdon,	16	6	Washington,	11	19
Lempster,	0	11	Wendall,	.....	.....
Marlborough,	26	0	Westmoreland,	54	0
Marlow,	.....	.....	Winchester,	17	0
			Goshen,	0	19

## COUNTY OF GRAFTON.

Alexandria,	0	17	Canaan,	14	0
Bath,	.....	.....	Cardigan [crossed],	.....	.....
Bridgewater,	0	17	Cockburne,	.....	.....
Cambridge,	.....	.....	Coleburne,	.....	.....
Campton,	0	20	Coventry,	.....	.....



COUNTY OF GRAFTON (*Continued*).

Towns.	For.	Ags't.	Towns.	For.	Ags't.
Dalton,	.....	.....	Lyme,	21	0
Dartmouth,	.....	.....	New Holderness,	6	0
[P. 174.] Dorchester,	.....	.....	Northumberland,	.....	.....
Enfield,	11	3	Orford,	.....	.....
Franconia,	.....	.....	Piermont,	.....	.....
Grafton,	6	0	Plymouth,	11	15
Gunthwait,	0	18	Rumney,	37	2
Hanover,	8	1	Shelburne,	.....	.....
Haverhill,	.....	.....	Thornton,	.....	.....
Lancaster,	.....	.....	Warren,	.....	.....
Landaff,	22	2	Wentworth,	10	0
Lebanon,	54	0	Burton,	.....	.....
Lincoln,	.....	.....	Orange,	7	0
Littleton,	.....	.....	New Chester,	.....	.....
Lyman,	.....	.....	[Total]	2122	978

[P. 175.] Voted That Mr. Newcomb, Mr. Plummer & Mr. E. S. Livermore, be a Committee to report to the Convention a true copy of the Constitution as revised and agreed to by the people.

Adjourned to 3 o'clock, P. M. Met accordingly.

The Committee appointed to report to the Convention a true copy of the Constitution as revised and agreed to by the people, reported the following [see p. 169] :

[P. 239.] Which Report [of a true copy of the Constitution] being read and considered, was received and accepted ; —and the following vote passed.

[P. 240.] In Convention held at Concord the fifth day of September Anno Domini 1792, The returns from the several Towns and unincorporated places being examined, and it appearing that the foregoing Bill of Rights and form of government as amended by the Convention, were approved by more than two thirds of the qualified voters present in town meetings and voting upon the question ;—*the same are agreed on and established by the Delegates of the people in Convention, and declared to be the Civil Constitution of the State of New Hampshire.*

[P. 241.] Voted That Mr. Walker and Mr. E. S. Livermore be a Committee to procure five hundred copies of the Constitution to be printed, and that each member of the Con-

vention and of the present Legislature, be furnished with a copy, and that one copy be sent to each town, and that said Committee procure the Constitution to be enrolled on Parchment, to be signed by the President of the Convention and Secretary, and transmitted to the Secretary of the State to be by him deposited in the Secretary's office.

Voted, That the Secretary be directed to certify to his Excellency the President of the State, the number of days that the Rev. Mr. Evans attended the Convention as chaplain, and inform him that it is the desire of Convention that he be compensated therefor out of the Treasury of this State.

THE CONVENTION THEN DISSOLVED.



# THE CONSTITUTION OF

NEW HAMPSHIRE AS AGREED AND AMENDED BY A CONVENTION OF DELEGATES HELD AT CONCORD IN SAID STATE, AND APPROVED BY THE PEOPLE, AND ESTABLISHED BY THE CONVENTION ON THE FIRST WEDNESDAY OF SEPTEMBER, 1792.

## PART FIRST.

### BILL OF RIGHTS.

ARTICLE I. ALL men are born equally free and independent ; therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

II. All men have certain natural, essential and inherent rights—among which are the enjoying and defending life and liberty, acquiring, possessing and protecting property ; and in a word, of seeking and obtaining happiness.

III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others ; and without such an equivalent, the surrender is void.

IV. Among the natural rights, some are in their very nature unalienable ; because no equivalent can be given or received for them ; of this kind are the *rights of conscience*.

V. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason ; 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, sentiments, or persuasion ; provided he doth not disturb the publick peace, or disturb others in their religious worship.

VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection ; and as the knowledge of these is most likely to be propagated through a society, by the institution of the publick worship of the Deity, and of publick instruction in morality and religion ; therefore, to promote these important purposes, the people of this state have a right to empower, and do hereby fully empower the legislature, to authorize, from time to time, the several towns, parishes, bodies corporate, or religious societies, within this state, to make adequate provision, at their own expense, for the support and maintenance of publick Protestant teachers of piety, religion and morality. .

*Provided notwithstanding,* That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own publick teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians, demeaning themselves quietly, and as good subjects of the state, 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.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry ; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

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

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.



IX. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X. Government being instituted for the common benefit, protection and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men ; therefore, whenever the ends of government are perverted, and publick 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.

XI. All elections ought to be free, and every inhabitant of the state, having the proper qualifications, has equal right to elect and be elected into office.

XII. Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty and property ; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to publick uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent.

XIII. No person, who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

XIV. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character ; to obtain right and justice freely, without being obliged to purchase it ; completely and without any denial ; promptly and without delay, conformably to the laws.

XV. 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

himself ; to meet the witnesses against him, face to face ; and to be fully heard in his defence, by himself and counsel. 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.

XVI. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment, (excepting for the government of the army and navy, and the militia in actual service) without trial by jury.

XVII. In criminal prosecutions, the trial of facts, in the vicinity where they happen, is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought be tried in any other county than that in which it is committed ; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason ; where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences : for the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate mankind.

XIX. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, 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 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 law.

XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury, and this method of procedure shall be held sacred, unless, in cases arising on the high seas and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken, that none but qualified persons should be appointed to serve ; and such ought to be\* fully compensated for their travel, time and attendance.

XXII. THE LIBERTY OF THE PRESS is essential to the security of freedom in a state : it ought therefore to be inviolably preserved.

XXIII. Retrospective laws are highly injurious, oppressive and unjust. No such laws therefore should be made, either for the decision of civil causes, or the punishment of offences.

XXIV. A well regulated militia is the proper, natural and sure defence of a state.

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

XXVI. In all cases and at all times, the military ought to be under strict subordination to, and governed by, the civil power.

XXVII. No soldier in time of peace, shall 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.

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\* *Be* is omitted in the original.

XXVIII. No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

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

XXX. 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 action, complaint, or prosecution, in any other court or place whatsoever.

XXXI. The legislature shall assemble for the redress of publick grievances, and for making such laws as the publick good may require.

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

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

XXXIV. No person can in any case be subjected to law-martial, or to any pains or penalties 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.

XXXV. 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 impartial 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, that the judges of the supreme judicial court should hold their offices so long as they behave well: subject, however, to such limitations on account of age, as may be provided by the constitution of the state:



and that they should have honorable salaries ascertained and established by standing laws.

XXXVI. Economy being a most essential virtue in all states, especially in a young one ; no pension shall be granted, but in consideration of actual services ; and such pensions ought to be granted with great caution by the legislature, and never for more than one year at a time.

XXXVII. In the government of this state, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from, and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government ; the people ought therefore to have a particular regard to all those principles in the choice of their officers and representatives : and they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.

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## PART SECOND.

### FORM OF GOVERNMENT.

THE people inhabiting the territory formerly called the Province of New-Hampshire, 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 *State of New-Hampshire*.

### GENERAL COURT.

The supreme legislative power, within this state, shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

The senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary ; and shall dissolve, and be dissolved seven days next preceding the said first Wednesday of June ; and shall be stiled *the General Court of New-Hampshire*.

The general court shall forever have full power and authority to erect and constitute judicatories, and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying and determining all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever, arising or happening within this state, or between or concerning persons inhabiting or residing, or brought within the same ; whether the same be criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real, personal, or mixed ; and for the awarding and issuing execution thereon. 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.

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, ordinances, directions and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, 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 this state ; such officers excepted, the election and appointment of whom are 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 state, 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 also to impose fines, mulcts, imprisonments and other punishments ; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents



within, the said state ; and upon all estates within the same ; to be issued and disposed of by warrant, under the hand of the governor of this state 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 this state, 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 publick charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practised ; in order that such assessments may be made with equality, there shall be a valuation of the estates within the state taken anew once in every five years at least, and as much oftener as the general court shall order.

No member of the general court shall take fees, be of council, or act as advocate, in any cause before either branch of the legislature ; and upon due proof thereof, such member shall forfeit his seat in the legislature.

The doors of the galleries, of each house of the legislature, shall be kept open to all persons who behave decently, except when the welfare of the state, in the opinion of either branch, shall require secrecy.

#### HOUSE OF REPRESENTATIVES.

There shall be, in the legislature of this state, a representation of the people, annually elected and founded upon principles of equality: and in order that such representation may be as equal as circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age and upwards, may elect one representative ; if four hundred and fifty rateable polls, may elect two representatives ; and so proceeding in that proportion, making three hundred such rateable polls the mean increasing number, for every additional representative.

Such towns, parishes, or places, as have less than one hundred and fifty rateable polls, shall be classed by the general court for the purpose of choosing a representative, and seasonably notified thereof. And in every class, formed for the abovementioned purpose, the first annual meeting shall be

held in the town, parish, or place, wherein most of the rateable polls reside ; and afterwards in that which has the next highest number ; and so on annually by rotation, through the several towns, parishes, or places, forming the district.

Whenever any town, parish, or place, entitled to town privileges as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish or place, very inconvenient, the general court may, upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general court.

The members of the house of representatives shall be chosen annually in the month of March, and shall be the second branch of the legislature.

All persons qualified to vote in the election of senators, shall be entitled to vote within the district where they dwell, in the choice of representatives. Every member of the house of representatives shall be chosen by ballot ; and for two years at least, next preceding his election, shall have been an inhabitant of this state ; shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one half of which to be a freehold, wherof he is seized in his own right ; shall be at the time of his election an inhabitant of the town, parish or place he may be chosen to represent, shall be of the protestant religion, and shall cease to represent such town, parish or place, immediately on his ceasing to be qualified as aforesaid.

The members of both houses of the legislature shall be compensated for their services out of the treasury of the state, by a law made for that purpose ; such members attending seasonably, and not departing without license. All intermediate vacancies in the house of representatives, may be filled up from time to time, in the same manner as annual elections are made.

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

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



The house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the house of representatives shall be a quorum for doing business ; but when less than two thirds of the representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the house of representatives or senate, shall be arrested or held to bail on mean process, during his going to, returning from, or attendance upon the court.

The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house ; and shall be judge of the returns, elections, and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly and contemptuous behaviour, or by threatening or ill treating any of its members ; or by obstructing its deliberations ; every person guilty of a breach of its privileges, in making arrest for debt, or by assaulting any member during his attendance at any session ; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house ; in assaulting any witness or other person, ordered to attend, by, and during his attendance upon\* the house ; or in rescuing any person arrested by order of the house, knowing them to be such.—The senate, governor and council, shall have the same powers in like cases : provided, that no imprisonment by either, for any offence, exceed ten days.

The journals of the proceedings, and all publick acts of both houses of the legislature, shall be printed and published immediately after every adjournment or prorogation ; and upon motion made by any one member, the yeas and nays upon any question shall be entered upon the journal : And any member of the senate or house of representatives, shall have a right, on motion made at the time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve, or bill passed, entered on the journal.

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\* In the original it is attendance *of* the house.

## SENATE.

The senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

And that the state may be equally represented in the senate, the legislature shall, from time to time, divide the state into twelve districts, as nearly equal as may be without dividing towns and unincorporated places ; and in making this division, they shall govern themselves by the proportion of direct taxes paid by the said districts, and timely make known to the inhabitants of the state the limits of each district.

The freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

The senate shall be the first branch of the legislature ; and the senators shall be chosen in the following manner, viz. every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this state, of twenty-one years of age and upwards, excepting paupers, and persons excused from paying taxes at their own request, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district whereof he is a member.

*Provided nevertheless,* That no person shall be capable of being elected a senator, who is not of the *protestant religion*, and seized of a freehold estate in his own right, of the value of two hundred pounds, lying within this state, who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

And every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in the town, parish and plantation, where he dwelleth and hath his home.



And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose shall be holden annually in the month of March, at such places respectively therein 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 clerk have in their several towns by this constitution.

The meeting for the choice of governor, council, and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and parishes present, and qualified to vote for senators ; and shall, in said meetings, in presence of the said selectmen, and of the town clerk in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person ; and the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up, and directed to the secretary of the state, with a superscription expressing the purport thereof: And the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which such town or parish shall lie, thirty days at least before the first Wednesday of June, or to the secretary of the state at least twenty days before the said first Wednesday of June : and the sheriff of each county, or his deputy, shall deliver all such certificates, by him received, into the secretary's office, at least twenty days before the first Wednesday of June.

And that there may be a due meeting of senators on the first Wednesday of June annually, the governor, and a majority 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 first Wednesday of June, he shall issue his summons to such persons as appear to be chosen sena-

tors, by a majority of votes, to attend and take their seats on that day.

*Provided nevertheless,* That for the first year the said returned copies shall be examined by the president, and a majority of the council then in office; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

And in case there shall not appear to be a senator 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 the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district; and in this manner all such vacancies shall be filled up in every district of the state, 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 happen.

The senate shall be final judges of the elections, returns and qualifications of their own members, as pointed out in this constitution.

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

*Provided nevertheless,* That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day, or at such place.

The senate shall appoint their president and other officers, and determine their own rules of proceedings: and not less than seven members of the senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five at least, shall be necessary to render their acts and proceedings valid.

The senate shall be a court, with full power and authority to hear, try and determine, all impeachments made by the house of representatives against any officer or officers of the state, for bribery, corruption, mal-practice or mal-administration, in office; with full power to issue summons, or compulsory process, for convening witnesses before them: but pre-



vious to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question, according to evidence. And every officer, impeached for bribery, corruption, mal-practice or mal-administration in office, shall be served with an attested copy of the impeachment, and order of senate thereon, with such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached (if he shall appear) full liberty of producing witnesses and proofs, and of making his defence, by himself and council, and may also, upon his refusing or neglecting to appear, hear the proofs in support of impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgments shall have the same force and effect as if the person impeached had appeared and pleaded in the trial. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit, under this state; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment and punishment, according to the laws of the land.

Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate, but have no vote therein.

#### EXECUTIVE POWER.

##### GOVERNOR.

There shall be a supreme executive magistrate, who shall be stiled the Governor of the State of New-Hampshire, and whose title shall be *His Excellency*.

The governor shall be chosen annually in the month of March; and the votes for governor shall be received, sorted, counted, certified, and returned, in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday of June, to be by them examined, and in case of

an election by a majority of votes through the state, the choice shall be by them declared and published.

And the qualifications of electors of the governor shall be the same as those for senators ; and if no person shall have a majority of votes, the senate and house of representatives shall by joint ballot elect one of the two persons having the highest number of votes, who shall be declared governor.

And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years, and unless he shall at the same time have an estate of the value of five hundred pounds, one half of which shall consist of a freehold in his own right within this state, and unless he shall be of the protestant religion.

In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the governor, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said first Wednesday of June.

And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause, whereby dangers may arise to the health or lives of the members from their attendance, the governor may direct the session to be holden at some other the most convenient place within the state.

Every bill which shall have passed both houses of the general court, shall, before it become a law, be presented to the governor ; if he approve, he shall sign it, but if not, he shall return it with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it ; if after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become 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 bill, shall be entered on the journal



of each house respectively. If any bill shall not be returned by the governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

Every resolve shall be presented to the governor, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

All judicial officers, the attorney general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia, shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place, unless a majority of the council agree thereto. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council, who made the same.

The captains and subalterns in the respective regiments, shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation.

Whenever the chair of the governor shall become vacant, by reason of his death, absence from the state, or otherwise, the president of the senate shall, during such vacancy, have and exercise all the powers and authorities which, by this constitution the governor is vested with, when personally present; but when the president of the senate shall exercise the office of governor, he shall not hold his office in the senate.

The governor, with advice of council, shall have full power and authority in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the

time to which it may be adjourned or prorogued, if the welfare of the state should require the same.

The governor of this state for the time being, shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land ; and shall have full power by himself, or by any chief 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 this state, to assemble in martial array, and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state ; and also to kill, slay, destroy if necessary, and conquer by all fitting ways, enterprise and means, all and every such person and persons as shall at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment or annoyance of this state ; and to use and exercise over the army and navy, and over the militia in actual service, the law martial in time of war, invasion, and also in rebellion, declared by the legislature to exist as occasion shall necessarily require : and surprise 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 state ; and in fine, the governor hereby is entrusted with all other powers incident to the office 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 : provided, that the 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 state, 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, nor grant commissions for exercising the law martial in any case, without the advice and consent of the council.

The power of pardoning offences, except such as persons may be convicted of before the senate by 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

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\**The* is omitted in the original.



governor with advice of 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.

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 state for the time being.

The commanding officers of the regiments shall appoint their adjutants and quarter-masters; the brigadiers, their brigade-majors; the major-generals, their aids; the captains and subalterns, their non-commissioned officers.

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

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

All publick boards, the commissary-general, all superintending officers of publick magazines and stores belonging to this state, 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 all small arms with their accoutrements, and of all other public property under their care respectively, distinguishing the quantity and kind of each, as particularly as may be, together with the condition of such forts and garrisons; and the 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.

The governor and council shall be compensated for their services, from time to time, by such grants as the general court shall think reasonable.

Permanent and honorable salaries shall be established by law, for the justices of the superior court.

#### COUNCIL.

There shall be annually elected by ballot five counsellors, for advising the governor in the executive part of government. The freeholders and other inhabitants in each county, qualified to vote for senators, shall some time in the month of March, give in their votes for one counsellor; which votes shall be received, sorted, counted, certified and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

And the person having a majority of votes in any county, shall be considered as duly elected a counsellor; but if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of those two, shall elect by joint ballot, the counsellor wanted for such county: and the qualifications for counsellors shall be the same as for senators.

If any person thus chosen a counsellor shall be elected governor or member of either branch of the legislature, and shall accept the trust, or if any person elected a counsellor, shall refuse to accept the office, or in case of the death, resignation, or removal of any counsellor out of the state, the governor may issue a precept for the election of a new counsellor in that county where such vacancy shall happen, and the choice shall be in the same manner as before directed; and the governor shall have full power and authority to convene the council, from time to time, at his discretion; and with them, or the majority of them, may and shall from time to time hold a council for ordering and directing the affairs of the state according to the laws of the land.

The members of the council may be impeached by the house and tried by the senate, for bribery, corruption, mal-practice, or mal-administration.



The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto ; and this record may be called for at any time by either house of the legislature ; and any member of the council may enter his opinion contrary to the resolutions of the majority, with the reasons for such opinion.

The legislature may, if the publick good shall hereafter require it, divide the state into five districts, as nearly equal as may be, governing themselves by the number of rateable polls and proportion of publick taxes ; each district to elect a counsellor : and in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

And whereas the elections appointed to be made by this constitution on the first Wednesday of June 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 be completed ; and the order of the elections shall be as follows : the vacancies in the senate (if any) shall be first filled up ; the governor shall then be elected, provided there shall be no choice of him by the people ; and afterwards the two houses shall proceed to fill up the vacancy (if any) in the council.

SECRETARY, TREASURER, COMMISSARY-GENERAL, &C.

The secretary, treasurer, and commissary-general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

The records of the state shall be kept in the office of the secretary ; and he shall attend the governor and council, the senate and representatives, in person or by deputy, as they may require.

The secretary of the state shall at all times have a deputy, to be by him appointed ; for whose conduct in office he shall be responsible : and in case of the death, removal, or inability, of the secretary, his deputy shall exercise all the duties of the office of secretary of this state, until another shall be appointed.

The secretary before he enters upon the business of his office, shall give bond with sufficient sureties, in a reasonable

sum, for the use of the state, for the punctual performance of his trust.

COUNTY TREASURER, &C.

The county treasurers and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practised, and the laws of the State.

*Provided nevertheless*, The legislature shall have authority to alter the manner of certifying the votes and the mode of electing those officers; but not so as to deprive the people of the right they now have of electing them.

And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary; each district to elect a register of deeds: and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

The tenure that all commissioned officers shall have by law 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 those concerning whom there is a different provision made in this constitution: *Provided nevertheless*, the governor,\* with consent of counsel, may remove them upon the address of both houses of the legislature.

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

In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their

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\* This was *president* in the original.



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 state.

All causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court until the legislature shall by law make other provision.

The general court are empowered to give to justices of the peace, jurisdiction in civil causes, when the damages demanded shall not exceed *four pounds*, and title of real estate is not concerned; but with right of appeal to either party, to some other court, so that a trial by jury in the last resort may be had.

No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

No judge of any court, or justice of the peace, shall act as attorney, or be of counsel to any party, or originate any civil suit in matters which shall come, or be brought before him as judge, or justice of the peace.

All matters relating to the probate of wills and granting letters of administration, shall be exercised by the judges of probate in such manner as the legislature have directed, or may hereafter direct; and the judges of probate shall hold their courts at such place or places, on such fixed days, as the conveniency of the people may require, and the legislature from time to time appoint.

No judge, or register of probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or register.

#### CLERKS OF COURT.

The judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure: and no such clerk shall act as an attorney, or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

## ENCOURAGEMENT OF LITERATURE, &amp;c.

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and publick schools; to encourage private and publick institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, publick and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.

OATH AND SUBSCRIPTIONS; EXCLUSION FROM OFFICES; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STILE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION, &c.

Any person chosen governor, counsellor, senator, or representative, military or civil officer, (town officers excepted) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B., do solemnly swear, that I will bear faith and true allegiance to the State of New-Hampshire, and will support the constitution thereof. *So help me God.*

I, A. B., do solemnly and sincerely 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, agreeably to the rules and regulations of this constitution, and the laws of the State of New-Hampshire. *So help me God.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, he shall not be obliged to take said oath again.

*Provided always,* When any person chosen or appointed as aforesaid, shall be of the denomination called quakers, or



shall be scrupulous of swearing, and shall decline taking the said oaths, such persons shall take and subscribe them, omitting the word *swear*, and likewise the words *so help me God*, subjoining instead thereof, *this I do under the pains and penalties of perjury*.

And the oaths or affirmations shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature, and by the senators and representatives first elected under this constitution, as altered and amended, before the president of the state, and a majority of the council then in office, and forever afterwards before the governor and council for the time being; and by all other officers, before such persons and in such manner as the legislature shall from time to time appoint.

All commissions shall be in the name of the State of New-Hampshire, signed by the governor and attested by the secretary, or his deputy, and shall have the great seal of the state affixed thereto.

All writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the State of New-Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear test of some other justice of the court to which the same shall be returnable; and be signed by the clerk of such court.

All indictments, presentments, and informations, shall conclude, *against the peace and dignity of the state*.

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

All the laws which have heretofore been adopted, used and approved, in the province, colony, or State of New-Hampshire, and usually practised on in the courts of law, shall remain and be in full force until altered and repealed by the legislature; such parts thereof only excepted, as are repug-

nant to the rights and liberties contained in this constitution: provided that nothing herein contained, when compared with the 23d article in the bill of rights, shall be construed to affect the laws already made respecting the persons, or estates, of absentees.

The privilege and benefit of the habeas corpus, shall be enjoyed in this state, 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 time not exceeding three months.

The enacting stile in making and passing acts, statutes, and laws, shall be—*Be it enacted by the senate and house of representatives, in general court convened.*

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

No person shall be capable of exercising at the same time more than one of the following offices within this state, viz. judge of probate, sheriff, register of deeds; and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts; military offices and offices of justices of the peace excepted.

No person holding the office of judge of any court (except special judges,) secretary, treasurer of the state, attorney-general, commissary-general, military officers receiving pay from the continent or this state (excepting officers of the militia, occasionally called forth on an emergency) register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and state and continental taxes, hereafter appointed and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in

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\* In the original *offices*.



the senate, or house of representatives, or council ; but his being chosen and appointed to, and accepting the same, shall operate as a resignation of their seat in the chair, senate, or house of representatives, or council ; and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

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

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.

To the end that there may be no failure of justice, or danger to the state by the alterations and amendments made in the constitution, the general court is hereby fully authorised and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.\*

It shall be the duty of the selectmen and assessors, of the several towns and places in this state, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant, this purpose among the others for the meeting, to wit, to take the sense of the qualified voters on the subject of a revision of the constitution ; and the meeting being warned accordingly (and not otherwise) the moderator shall take the sense of the qualified voters present, as to the necessity of a revision ; and a return of the number of votes for and against such necessity, shall be made by the clerk, sealed up and directed to the general court, at their then next session ; and if it shall appear to the general court by such return, that the sense of the people of the state has been taken, and that in the opinion of the majority of the qualified voters in the state, present and voting at said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose, otherwise the general court shall direct the sense of the people to be

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\* See Act of 14th Dec., 1792.

taken, and then proceed in the manner before mentioned. The delegates to be chosen in the same manner, and proportioned as the representatives to the general court ; provided that no alterations shall be made in this constitution, before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present and voting on the subject.

And the same methods of taking the sense of the people, as to a revision of the constitution, and calling a convention for that purpose, shall be observed afterwards, at the expiration of every seven years.

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 books containing the laws of this state, in all future editions thereof.



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