

— THE CONSTITUTION —

OF THE

STATE OF SOUTH CAROLINA

SEPTEMBER

27th

1865

We, the people of the State of South Carolina, by our Delegates in Convention met, do ordain and establish this Constitution for the Government of the said State;

Article 1

Section 1. *The Legislative authority of this State shall be vested in a General Assembly which shall consist of a Senate and a House of Representatives.*

Section 2. *The House of Representatives shall be composed of members chosen by ballot, every second year, by the citizens of this State, qualified as in this Constitution is provided.*

Section 3. *Each Judicial District in the State shall constitute one Election District, except Charleston District, which shall be divided into two Election Districts; one consisting of the late Parishes of St. Philip and St. Michael, to be designated*

the Election District of Charleston; the other consisting of all that part of the Judicial District which is without the limits of the said Parishes, to be known as the Election District of Berkeley.

Section 4. The boundaries of the several Judicial and Election Districts shall remain as they are now established.

Section 5. The House of Representatives shall consist of one hundred and twenty four members, to be apportioned among the several Election Districts of the State, according to the number of white inhabitants contained in each, and the amount of all taxes raised by the General Assembly, whether direct or indirect, or of whatever species, paid in each, deducting therefrom all taxes paid on account of property held in any other District, and adding thereto all taxes elsewhere paid on account of property held in such District. An enumeration of the white inhabitants, for this purpose, was made in the year one thousand eight hundred and fifty nine, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed; and Representatives shall be assigned to the different Districts in the above mentioned proportion, by Act of the General Assembly at the session immediately succeeding every enumeration; Provided, that until the apportionment, which shall be made upon the next enumeration, shall take effect, the representation of the several Election Districts, as herein

constituted, shall continue as assigned at the last apportionment; each District which has been heretofore divided into smaller Districts, known as Parishes, having the aggregate number of Representatives which the Parishes heretofore embraced within its limits have had since that apportionment, the Representative to which the Parish of All Saints has been heretofore entitled, being, during this interval, assigned to Storry Election District.

Section 6. If the enumeration herein directed shall not be made in the course of the year appointed for the purpose, it shall be the duty of the Governor to have it effected as soon thereafter, as shall be practicable.

Section 7. In assigning Representatives to the several Districts, the General Assembly shall allow one Representative for every sixty second part of the whole number of white inhabitants in the State, and one Representative also for every sixty second part of the whole taxes raised by the General Assembly. There shall be further allowed one Representative for such fractions of the sixty second part of the white inhabitants, and of the sixty second part of the taxes, as when added together, form a unit.

Section 8. All taxes upon property, real or personal, shall be laid upon the actual value of the property, taxed, as the same shall be ascertained by an assessment made for the purpose of laying such tax. In the first apportionment which shall be made under

this Constitution, the amount of taxes shall be estimated from the average of the two years next preceding such apportionment; but, in every subsequent apportionment, from the average of the ten years then next preceding.

Section 9. If, in the apportionment of Representatives, any Election District shall appear not to be entitled from its population and its taxes to a Representative, such Election District shall nevertheless send one Representative; and, if there be still a deficiency of the number of Representatives required by section fifth, such deficiency shall be supplied by assigning Representatives to those Election Districts having the largest surplus fractions, whether those fractions consist of a combination of population and taxes, or of population or taxes separately, until the number of one hundred and twenty four members be made up; Provided, however, that not more than twelve Representatives shall, in any apportionment, be assigned to any one Election District.

Section 10. No apportionment of Representatives shall be construed to take effect, in any manner, until the general election, which shall succeed such apportionment.

Section 11. The Senate shall be composed of one member, from each Election District, except the Election District of Charleston, to which shall be allowed two Senators.

Section 12. Upon the meeting of the first General Assembly, which shall be chosen under the provisions

of this Constitution the Senators shall be divided, by lot, into two classes; the seats of the Senators of the one class to be vacated at the expiration of two years after the Monday following the general election, and of those of the other class at the expiration of four years; and the number of these classes shall be so proportioned that one half of the whole number of Senators may, as nearly as possible, continue to be chosen thereafter every second year.

Section 13. No person shall be eligible to, or take or retain, a seat in the House of Representatives, unless he is a free white man, who hath attained the age of twenty one years, hath been a citizen and resident of this State three years next preceding the day of election, and hath been, for the last six months of this time, and shall continue, a resident of the District which he is to represent.

Section 14. No person shall be eligible to, or take or retain, a seat in the Senate, unless he is a free white man, who hath attained the age of thirty years, hath been a citizen and resident of this State five years next preceding the day of election, and hath been, for the last six months of this time, and shall continue to be, a resident of the District which he is to represent.

Section 15. Senators and members of the House of Representatives shall be chosen at a general election on the third Wednesday in

October, in the present year, and on the same day in every second year thereafter, in such manner and for such terms of office as are herein directed. They shall meet on the fourth Monday in November, annually, at Columbia, (which shall remain the Seat of Government, until otherwise determined by the concurrence of two thirds of both branches of the whole representation,) unless the casualties of war or contagious disorders shall render it unsafe to meet there; in either of which cases the Governor or Commander in Chief, for the time being, may, by proclamation, appoint a more secure and convenient place of meeting.

Section 16. The terms of office of the Senators and Representatives chosen at a general election shall begin on the Monday following such election.

Section 17. Each House shall judge of the elections, returns and qualifications of its own members; and a majority of each House shall constitute a quorum to do business; but a smaller number, may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as may be provided by law.

Section 18. Each House shall choose its own Officers, determine its rules of proceeding, punish its members for disorderly behaviour, and, with the concurrence of two thirds, expel a member, but not a second time for the same cause.

Section 19. Each House may punish, by imprisonment during its sitting, any person, not a member, who shall be guilty of disrespect to the House by any disorderly or contemptuous behavior, in its presence; or who, during the time of its sitting, shall threaten harm to body or estate of any member for anything said or done in either House, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the House, in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the House.

Section 20. The members of both Houses shall be protected in their persons and estates during their attendance on, going to and returning from the General Assembly, and ten days previous to the sitting, and ten days after the adjournment thereof. But these privileges shall not be extended so as to protect any member who shall be charged with treason, felony or breach of the peace.

Section 21. Bills for raising a revenue shall originate in the House of Representatives, but may be altered, amended or rejected by the Senate; and all other bills may originate in either House, and may be amended, altered or rejected by the other.

Section 22. Every Act, or Resolution having the force of law, shall relate to but one subject, and that shall be expressed in the title.

Section 23. No Bill shall have the force of law, until it shall have been read three times, and on three several days, in each House, has had the Seal of the State affixed to it, and has been signed in the Senate House, by the President of the Senate and the Speaker of the House of Representatives.

Section 24. No money shall be drawn out of the public Treasury, but by the Legislative authority of the State.

Section 25. In all elections by the General Assembly, or either House thereof, the members shall vote "viva voce", and their votes thus given shall be entered upon the journals of the House to which they respectively belong.

Section 26. The members of the General Assembly, who shall meet under this Constitution, shall be entitled to receive out of the public treasury, for their expenses during their attendance on, going to and returning from the General Assembly, five dollars for each day's attendance, and twenty cents for every mile of the ordinary route of travel between the residence of the member, and the Capital, or other place of sitting of the General Assembly, both going and returning; and the same may be increased or diminished by law, if circumstances shall require, but no alteration shall be made to take effect during the existence of the General Assembly.

which shall make such alteration.

Section 27. Neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the Assembly shall be, at the time sitting.

Section 28. No person shall be eligible to a seat in the General Assembly whilst he holds any office of profit or trust under this State, the United States of America, or any of them, or under any other power, except officers in the militia, army or navy of this State, Magistrates, or Justices of Inferior Courts while such Justices receive no salaries; nor shall any contractor of the army or Navy of this State, the United States of America, or any of them, or the Agents of such contractor be eligible to a seat in either House. And if any member shall accept or exercise any of the said disqualifying offices, he shall vacate his seat.

Section 29. If any Election District shall neglect to choose a member or members on the day of election, or if any person chosen a member of either House shall refuse to qualify and take his seat, or shall resign, die, depart the State, accept any disqualifying office, or become otherwise disqualified to hold his seat, a writ of election shall be issued by the President of the Senate, or Speaker of the House of Representatives, as the case

may be, for the purpose of filling the vacancy thereby occasioned, for the remainder of the term for which the person so refusing to qualify, resigning, dying, departing the State, or becoming disqualified, was elected to serve, or the defaulting Election District, ought to have chosen a member or members.

Section 30. And whereas, the ministers of the Gospel are, by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the Gospel or public preacher, of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of Governor, Lieutenant Governor, or to a seat in the Senate or House of Representatives.

Article 11

Section 1. The Executive authority of this State shall be vested in a Chief Magistrate, who shall be styled, the Governor of the State of South Carolina.

Section 2. The Governor shall be elected by the electors duly qualified to vote for members of the House of Representatives, and shall hold his office for four years, and until his successor shall be chosen and qualified, but the same person shall not be Governor for two consecutive terms.

Section 3. No person shall be eligible to the office of Governor, unless he hath attained the age of thirty years, and hath been a citizen and resident of this State for the ten years next preceding the day of election. And no person shall hold the office of Governor and any other office or commission, civil or military, (except in the militia) under this State or the United States, or any of them, or any other power, at one and the same time.

Section 4. The returns of every election of Governor shall be sealed up by the managers of elections in their respective Districts, and transmitted, by a messenger chosen by them, to the Seat of Government, directed to the Secretary of State, who shall deliver them to the Speaker of the House of Representatives at the next ensuing session of the General Assembly; during the first week of which session the Speaker shall open and publish them in the presence of both Houses of the General Assembly. The person having the highest number of votes shall be Governor, but, if two or more shall be equal and highest in votes, the General Assembly shall, during the same session, in the House of Representatives, choose one of them Governor, "viva voce". Contested elections for Governor shall be determined by the General Assembly in such manner, as shall be prescribed by law.

Section 5. A Lieutenant Governor shall

be chosen at the same time, in the same manner, continue in office for the same period and be possessed of the same qualifications as the Governor, and shall, "ex officio", be President of the Senate.

Section 6. The Lieutenant Governor, acting as President of the Senate, shall have no vote, unless the Senate be equally divided.

Section 7. The Senate shall choose a President, "pro tempore", to act in the absence of the Lieutenant Governor, or when he shall exercise the office of Governor.

Section 8. A member of the Senate or of the House of Representatives, being chosen and acting as Governor or Lieutenant Governor, shall thereupon vacate his seat, and another person shall be elected in his stead.

Section 9. In case of the impeachment of the Governor or his removal from office, death, resignation, disqualification, disability or removal from the State, the Lieutenant Governor shall succeed to his office, and in case of the impeachment of the Lieutenant Governor, or his removal from office, death, resignation, disqualification, disability or removal from the State, the President, "pro tempore", of the Senate, shall succeed to his office, and when the offices of the Governor, Lieutenant Governor and President, "pro tempore", of the Senate shall become vacant in the recess

of the Senate, the Secretary of State for the time being shall, by proclamation, convene the Senate, that a President, "pro tempore", may be chosen to exercise the office of Governor for the unexpired term.

Section 10. The Governor shall be Commander in Chief of the Army and Navy of this State, and of the Militia, except when they shall be called into the actual service of the United States.

Section 11. He shall have power to grant reprieves and pardons after conviction (except in cases of impeachment) in such manner, on such terms, and under such restrictions as he shall think proper, and he shall have power to remit fines and forfeitures unless otherwise directed by law. It shall be his duty to report to the General Assembly, at the next regular session thereafter, all pardons granted by him with a full statement of each case and the reasons moving him thereto.

Section 12. He shall take care that the laws be faithfully executed in mercy.

Section 13. The Governor and Lieutenant Governor shall, at stated times, receive for their services a compensation which shall be neither increased nor diminished during the period for which they shall have been elected.

Section 14. All officers in the Executive Department, when required by the Governor, shall give

him information, in writing, upon any subject relating to the duties of their respective offices.

Section 15. The Governor shall, from time to time, give to the General Assembly, information of the condition of the State, and recommend to their consideration such measures as he shall judge necessary or expedient.

Section 16. He may, on extraordinary occasions convene the General Assembly, and, should either House remain without a quorum for three days, or in case of disagreement between the two Houses, with respect to the time of adjournment, may adjourn them to such time as he shall think proper, not beyond the fourth Monday of November then next ensuing.

Section 17. He shall commission all officers of the State.

Section 18. It shall be the duty of the Managers of elections of this State, at the first general election under this Constitution, and at each alternate general election thereafter, to hold an election for Governor and Lieutenant Governor.

Section 19. The Governor and the Lieutenant Governor, before entering upon the duties of their respective offices, shall, in the presence of the General Assembly, take the oath of office prescribed in this Constitution.

Section 20. The Governor shall reside, during

the sitting of the General Assembly, at the place where its session may be held; and the General Assembly may by law require him to reside at the Capital of the State.

Section 21. Every bill, which shall have passed the General Assembly, 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, a majority of the whole representation of that House shall agree to pass the bill, it shall be sent, together, with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by a majority of the whole representation of that other 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 and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within two 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. And that time may always be allowed the Governor, to consider bills passed by the General Assembly,

neither House shall read any bill on the last day of its session, except such bills as have been returned by the Governor, as herein provided.

Article III

Section 1. The Judicial power shall be vested in such Superior and Inferior Courts of Law and Equity as the General Assembly shall, from time to time, direct and establish. The Judges of the Superior Courts shall be elected by the General Assembly, shall hold their offices during good behavior, and shall, at stated times, receive a compensation for their services which shall neither be increased nor diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States of America, or any of them or any other power. The General Assembly shall, as soon as possible, establish for each District in the State, an Inferior Court or Courts to be styled "The District Court", the Judge whereof shall be resident in the District, while in office, shall be elected by the General Assembly for four years, and shall be re-eligible, which Court shall have jurisdiction of all civil causes wherein one or both of the parties are persons of color, and of all criminal cases wherein the accused is a person of color, and the General Assembly is em-

Article VI

Section 1. The House of Representatives shall have the sole power of impeaching; but no impeachment shall be made unless with the concurrence of two thirds of the House of Representatives.

Section 2. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be on oath, or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present.

Section 3. The Governor, Lieutenant Governor, and all civil officers shall be liable to impeachment, for high crimes and misdemeanors, for any misbehavior in office, for corruption in procuring office, or for any act which shall degrade their official character. But judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law.

Section 4. All civil officers, whose authority is limited to a single Judicial District, a single Election District, or part of either, shall be appointed, hold their office, be removed from office and, in addition to liability to impeachment, may be punished for official misconduct, in such manner as the General Assembly, previous to their appointment, may provide.

Section 5. If any civil officer shall become dis-

abled from discharging the duties of his office, by reason of any permanent, bodily or mental infirmity, his office may be declared to be vacant, by joint resolution agreed to by two thirds of the whole representation in each House of the General Assembly; Provided, that such resolution shall contain the grounds for the proposed removal, and, before it shall pass either House, a copy of it shall be served on the officer, and a hearing be allowed him.

Article VII

Section 1. The Treasurer and the Secretary of State shall be elected by the General Assembly in the House of Representatives, shall hold their offices for four years, and shall not be eligible for the next succeeding term.

Section 2. All other officers shall be appointed as they hitherto have been, until otherwise directed by law, but the same person shall not hold the office of Sheriff for two consecutive terms.

Section 3. All commissions shall be in the name and by the authority of the State of South Carolina, be sealed with the Seal of the State, and be signed by the Governor.

Article VIII

All laws of force in this State, at the adoption of this Constitution, and not repugnant hereto, shall so continue, until altered or repealed by the General Assembly, except where they are temporary, in which case they shall expire at the times respectively limited for their duration, if not continued by act of the

General Assembly.

Article IX

Section 1. All power is originally vested in the people, and all free Governments are founded on their authority, and are instituted for their peace, safety and happiness.

Section 2. No person shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty or property, but by due process of law; nor shall any bill of attainder, "ex post facto" law, or law impairing the obligation of contracts ever be passed by the General Assembly.

Section 3. The military shall be subordinate to the civil power.

Section 4. The privilege of the Writ of Habeas Corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety requires it.

Section 5. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Section 6. The General Assembly shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for any longer time than during good behavior.

Section 7. The trial by jury, as heretofore used in this State, and the liberty of the press, shall be

forever inviolable. The General Assembly shall have power to determine the number of persons who shall constitute the jury in the Inferior and District Courts.

Section 8. The exercise and enjoyment of religious profession and worship without discrimination or preference, shall be allowed within this State, to all mankind; Enacted, that the liberty of conscience hereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the State.

Section 9. The rights, privileges, immunities and estates of both civil and religious societies, and of corporate bodies shall remain, as if the Constitution of this State had not been altered or amended.

Section 10. The rights of primogeniture shall not be reestablished, and there shall not fail to be some legislative provision for the equitable distribution of the estates of intestates.

Section 11. The slaves in South Carolina having been emancipated by the action of the United States authorities, neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall ever be reestablished in this State.

Article X

Section 1. The General Assembly, whenever,

tax is laid upon the same time,
upon a capita. It not be less
upon each poll than one ^{fourth} of the tax laid
upon each hundred dollars worth of the assessed
value of the land taxed; excepting, however, from
the operation of such capitation tax all such
classes of persons, as, from disability, or otherwise,
ought, in the judgment of the General Assembly, to
be exempted.

Article XI

Section 1. The business of the Treasury shall
be conducted by one Treasurer, who shall hold his
office and reside at the Seat of Government.

Section 2. The Secretary of State shall hold
his office and reside at the Seat of Government.

Article XII

Section 1. No Convention of the people shall
be called unless by the concurrence of two thirds
of the whole representation in each House of the
General Assembly.

Section 2. No part of this Constitution shall
be altered, unless a bill to alter the same shall have
been read, on three several days, in the House of
Representatives, and, on three several days, in the
Senate, and agreed to, at the second and third readings,
two thirds of the whole representation in each
House of the General Assembly; neither, shall any
alteration take effect until the bill, so agreed to,