

RULES AND ORDERS

TO BE OBSERVED IN

THE SENATE

OF THE

Commonwealth of Massachusetts,

FOR THE YEAR 1841.

PUBLISHED BY ORDER OF THE SENATE.



BOSTON:

DUTTON AND WENTWORTH, STATE PRINTERS.

1841.

DANIEL P. KING,

—
RIGHT.

1. Seth Sprague, Jr.
2. Charles Marston,
3. James Allen,
4. Samuel Wood,
5. William J. Hubbard,
6. William Bowdoin,
7. David Choate,
8. George T. Davis,
9. Theophilus Parsons,
10. William Child,
11. Benjamin Thompson,
12. Amory Holman,
13. Jeffrey Richardson,
14. Chester Adams,
15. Seth Crowell,
16. James M. Robbins,
17. William G. Bates,
18. Appleton Howe,
19. Albert Fearing,
20. Phineas How.

PRESIDENT.

—

LEFT.

1. Seth Whitmarsh,
2. Stephen Oliver,
3. Horatio Pratt,
4. Foster Hooper,
5. Amos Abbott,
6. Timothy A. Phelps,
7. Charles C. P. Hastings,
8. Edmund Parker,
9. Emory Washburn,
10. John B. Wells,
11. Melatiah Everett,
12. Jesse Perkins,
13. Seth Ames,
14. Henry W. Kinsman,
15. Thomas Bradley,
16. Asa F. Lawrence,
17. William C. Plunkett,
18. James White,
19. William Williams.

RULES AND ORDERS.

Of the Duties and Powers of the President.

1. The President shall take the chair every day at the hour to which the Senate shall have adjourned, shall call the members to order, and, on the appearance of a quorum, shall cause the journal of the preceding day to be read.

2. He shall preserve order and decorum, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal. He shall rise to put a question or to address the Senate, but may read sitting.

3. He shall declare all votes; but, if any member rises to doubt a vote, the President shall order a return of the number voting in the affirmative and in the negative, without any further debate upon the question.

4. In all cases of ballot by the Senate, the President shall vote; and in other cases he may, but shall not be required to vote unless the Senate is equally divided.

5. All Committees shall be appointed by the President, except when it may be specially directed that there shall be an election by ballot.

6. When any member shall require a question to be determined by yeas and nays, the President shall take the sense of the board in that manner, provided one fourth part of the members present are in favor of it.

7. When a question is under debate, the President shall receive no motion but to *adjourn*, to *lay on the table*, for the *previous question*, to *postpone to a day certain*, to *commit*, to *amend*, or to *postpone indefinitely*, which several motions shall have precedence in the order in which they stand arranged; and a motion to adjourn shall be decided without debate.

8. When two or more members happen to rise at once, the President shall name the member who is to speak first.

9. The President shall have the right to name a member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.

10. In case the President shall be absent at the hour to which the Senate was adjourned, the senior member present shall call the board to order, and shall preside until a President pro tempore be elected.

Decorum and Debate.

11. Every member, when he speaks, shall stand in his place, and address the President, and when he has done speaking, shall sit down.

12. No member shall speak more than once on one question, to the prevention of any other who has not spoken, and is desirous to speak, nor more than twice without obtaining leave of the board.

13. No member speaking shall be interrupted by another but by rising up to call to order.

14. After a question is put to a vote, no member shall speak to it.

15. Every member presenting a petition, memorial, or remonstrance, shall endorse his name thereon, and in the filing thereof, state briefly the nature and object of the instrument, and shall also give, in his place, a brief summary thereof, and the reading of the same shall be dispensed with, unless specially ordered by the board

16. A motion, when seconded, and not before, shall be received and considered, and every motion shall be reduced to writing if the President direct it; and no member shall be permitted to lay a motion in writing on the table, until he has read the same in his place, and the same has been seconded.

17. When a vote has passed, it shall be in order for any member to move for a reconsideration thereof, on the same or the succeeding day; and notice given, by any member, on the day when the vote is passed, of an intention to move a reconsideration on the next day, shall preclude a motion for present reconsideration; and when a motion for reconsideration is decided, that decision shall not be reconsidered.

18. A question containing two or more propositions capable of division, shall be divided whenever desired by any member. A motion to strike out and insert shall be deemed indivisible. But a motion to strike out, being lost, shall neither preclude amendment nor a motion to strike out and insert.

19. The unfinished business in which the Senate was engaged at the time of the last adjournment, shall have the preference in the orders of the day.

20. No member shall absent himself from the Senate without leave, unless there be a quorum left present at the Board.

21. No member shall act as counsel for any party before any committee of the Legislature.

22. No rule or order shall be dispensed with, or rescinded, unless two thirds of the members present shall consent thereto.

23. Whenever a question shall be taken by yeas and nays, the clerk shall call the name of each member, and every member shall vote thereon unless excused. But the President need not vote unless the Senate is equally divided.

Of Committees.

24. The following Standing Committees shall be appointed at the commencement of the first session, to wit:—

A Committee on the Judiciary;

A Committee on Matters in Probate and Chancery;

A Committee on Education;

And each of these Committees shall consist of Three Members.

A Committee on Bills in the third reading;

A Committee on Engrossed Bills;

And each of these Committees shall consist of Six Members.

25. The person first named on Committees appointed by the President shall be chairman. In all elections of Committees by ballot, the person having the highest number of votes shall act as chairman.

26. All Committees may report by bill, resolve, or otherwise; and such report, except it be an order

of notice, shall be made the order of the day next succeeding that on which it shall have been made.

27. No Committee, other than a Joint Committee or a Special Committee of this Board, shall be allowed to occupy the Senate Chamber without leave of the Board.

Of Bills and Resolves.

28. All resolves shall be twice read, and no resolve, having for its object the payment or appropriation of money, shall pass until one day after it shall have been first introduced.

29. All bills and resolves from the House of Representatives, after they are read a first time, shall be committed to a committee of this Board, except when said bills or resolves shall have been reported by a joint committee.

30. All bills in the third reading and resolves in the second reading, shall be committed to the committee on bills in the third reading, whose duty it shall be to compare their relations with the constitution, and any existing laws relating to the same subject matter, and to see that all such bills and resolves are in the technical form.

31. No bill shall pass to be engrossed without three readings; and bills in the second and third readings, and resolves in the second reading, shall be made the order of the day for the day next succeeding that on which leave shall have been given to read them a second or third time, and the president shall order them accordingly; and after entering upon the orders of the day, they shall be disposed of in course;

and matters passed over in the orders of the day shall go to the foot of the list, and shall not be considered till the next day.

32. All engrossed bills and resolves shall be committed to the standing committee on engrossed bills, whose duty it shall be strictly to examine the same, and if found by them to be rightly and truly engrossed, they shall so report to the board, and the final question shall be taken thereon without any further reading, unless, on motion of any member, a majority of the Senate shall be in favor of reading the same as engrossed.

33. No engrossed bill shall be amended.

34. A measure once rejected shall not be revived in the Senate, during the same session, except by reconsideration, and this rule shall apply as well to measures originating in the House as to those originating in the Senate.

Elections by Ballot.

35. In all elections by ballot, a time shall be assigned for such election, at least one day previous thereto.

Senate Library.

36. The books belonging to the Senate Chamber, shall be in the care of the Clerk, who shall keep an accurate list thereof; and no book shall be taken from the Senate Chamber by any person without giving notice thereof to the Clerk, who shall enter in a book to be kept by him, the name of the book, and the name of the person taking the same.

JOINT RULES AND ORDERS OF THE TWO HOUSES.

I.

The following Joint Standing Committees shall be appointed at the commencement of the January session, viz :—

- A Committee on Accounts ;
- A Committee on Roads and Bridges ;
- A Committee on Railways and Canals ;
- A Committee on Towns ;
- A Committee on Claims ;
- A Committee on the Militia ;
- A Committee on Parishes and other Religious Societies ;
- A Committee on the Fisheries ;
- A Committee on Banks and Banking ;
- A Committee on Mercantile Affairs & Insurance ;
- A Committee on Public Lands ;
- A Committee on Manufactures ;
- A Committee on the Library ;
- A Committee on Prisons ;
- A Committee on Agriculture ; and
- A Committee on Public Charitable Institutions ;

And each of said Committees shall consist of two on the part of the Senate, and five on the part of the House, except the Committee on the Library, which, by law, is to consist of three on the part of each House, and no Member of any Committee shall receive compensation for personal services on such Committee, during the Session of the Legislature.

II.

The Joint Committees of the two Houses may report by bill, resolve, or otherwise, to either House, at their discretion ; and all bills and resolves reported by them, shall be written in a fair round hand,

without interlineation, on not less than a sheet of paper, with suitable margins, and spaces between the several sections or resolves.

III.

All papers, while on their passage between the two Houses, may be under the signature of the respective Clerks, except Bills and Resolves, in their last stage.

IV.

After Bills shall have passed both Houses to be engrossed, they shall be in the charge of the Clerks of the two Houses, who shall deliver the same to the Secretary of the Commonwealth, to be engrossed in the manner prescribed by law; and when engrossed, the said Clerks shall forthwith deliver the same to the Committee of the House of Representatives on Engrossed Bills; and when the same shall have passed to be enacted in that House, they shall, in like manner, be delivered to the Committee of the Senate on Engrossed Bills.

V.

After Bills shall have passed both Houses to be enacted, the Clerk of the Senate shall cause them to be laid before the Governor for his approbation, an indorsement being first made thereon, by the Clerk of the House, in which the same originated, certifying in which House the same originated, which indorsement shall be entered on the Journals by the Clerks respectively, and the Clerk of the Senate shall enter on the Journal of the Senate the day on which the same were laid before the Governor.

VI.

All resolves and other papers, which are to be presented to the Governor of the Commonwealth, shall be presented for his approbation, in the same manner as prescribed in the case of Bills.

CIVIL GOVERNMENT
OF THE
Commonwealth of Massachusetts,
FOR THE POLITICAL YEAR 1841.

HIS EXCELLENCY
JOHN DAVIS,
of Worcester,
GOVERNOR.

HIS HONOR
GEORGE HULL,
of Sandisfield,
LIEUTENANT GOVERNOR.

COUNCIL.

JOHN R. ADAN,	<i>of Boston.</i>
CHARLES HUDSON,	<i>of Westminster.</i>
JOSEPH GRINNELL,	<i>of New Bedford.</i>
NATHANIEL M. DAVIS,	<i>of Plymouth.</i>
JAMES H. DUNCAN,	<i>of Haverhill.</i>
WILLIAM PORTER, JR.	<i>of Lee.</i>
SAMUEL P. LOUD,	<i>of Dorchester.</i>
EPHRAIM HASTINGS,	<i>of Heath.</i>
JOSIAH ADAMS,	<i>of Framingham.</i>

JOHN P. BIGELOW,
Secretary of the Commonwealth.

DAVID WILDER,
Treasurer & Receiver General of the Commonwealth.

SENATE.

DANIEL P. KING,
PRESIDENT.

SUFFOLK DISTRICT.

Albert Fearing, William J. Hubbard, Theophilus Parsons, Jeffrey Richardson, John B. Wells,	} of <i>Boston.</i>
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ESSEX DISTRICT.

Amos Abbott,	of <i>Andover.</i>
David Choate,	of <i>Essex.</i>
Daniel P. King,	of <i>Danvers.</i>
Henry W. Kinsman,	of <i>Newburyport.</i>
Stephen Oliver,	of <i>Lynn.</i>

MIDDLESEX DISTRICT.

Seth Ames,	of <i>Lowell.</i>
Chester Adams,	of <i>Natick.</i>
Phineas How,	of <i>Concord.</i>
Asa F. Lawrence,	of <i>Pepperell.</i>
Edmund Parker,	of <i>Reading.</i>
Benjamin Thompson,	of <i>Charlestown.</i>

WORCESTER DISTRICT.

James Allen,	<i>of Oakham.</i>
Charles C. P. Hastings,	<i>of Mendon.</i>
Amory Holman,	<i>of Bolton.</i>
Samuel Wood,	<i>of Grafton.</i>
Emory Washburn,	<i>of Worcester.</i>

HAMPSHIRE DISTRICT.

William Bowdoin,	<i>of South Hadley.</i>
Timothy A. Phelps,	<i>of Chesterfield.</i>

FRANKLIN DISTRICT.

George T. Davis,	<i>of Greenfield.</i>
James White,	<i>of Northfield.</i>

HAMPDEN DISTRICT.

William G. Bates,	<i>of Westfield.</i>
William Child,	<i>of Springfield.</i>

BERKSHIRE DISTRICT.

William C. Plunkett,	<i>of Adams.</i>
William Williams,	<i>of Stockbridge.</i>

NORFOLK DISTRICT.

Melatihah Everett,	<i>of Wrentham.</i>
Appleton Howe,	<i>of Weymouth.</i>
James M. Robbins,	<i>of Milton.</i>

PLYMOUTH DISTRICT.

Seth Sprague, Jr.	<i>of Duxbury.</i>
Jesse Perkins,	<i>of N. Bridgewater.</i>

BRISTOL DISTRICT.

Seth Whitmarsh, *of Seekonk.*
Horatio Pratt, *of Taunton.*
Foster Hooper, *of Fall River.*

BARNSTABLE DISTRICT.

Charles Marston, *of Barnstable.*
Seth Crowell, *of Dennis.*

NANTUCKET AND DUKES CO. DISTRICT.

Thomas Bradley, *of Tisbury.*

CHARLES CALHOUN, *Clerk.*
W. P. GREGG, *Assistant Clerk.*
REV. THOMAS M. CLARK, Jr. *Chaplain.*
MILTON HALL, *Doorkeeper.*
WILLIAM A. SANGER, *Page.*

HOUSE OF REPRESENTATIVES.

GEORGE ASHMUN,

SPEAKER.

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<i>Leicester,</i>	Nathaniel P. Denny,	
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REV. JOSEPH H. TOWNE, *Chaplain.*

BENJ. STEVENS, { *Sergeant-at-Arms of*
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ELIJAH W. CUTTING, *Messenger.*

DAVID MURPHY, *Assistant Messenger.*

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ON EDUCATION.

Messrs. Choate, Robbins, and Bates.

ON BILLS IN THE THIRD READING.

Messrs. Hubbard, Ames, Choate, Davis, Everett,
and Bates.

ON ENGROSSED BILLS.

Messrs. Pratt, Lawrence, Hooper, White, Oliver
and Bradley.

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- Messrs. Livermore, of Cambridge, }
Hinckley, of Barnstable, } *of the House.*
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Phelps, }
- Messrs. Rising, of Worthington, }
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Boynton, of Templeton, }
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Parks, of Russell, }

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 Robbins, and }
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 Messrs. Davis, of Boston, } *of the House.*
 Oliver, of Brookline, }
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 Stowell, of Peru, } *of the House.*
 Lathrop, of South Hadley, }
 Blackinton, of Attleboro', }
 Field, of Leverett, }

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OF THE
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ON BILLS IN THE THIRD READING.

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ON THE PAY ROLL.

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ON CHANGE OF NAMES.

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ON LEAVE OF ABSENCE.

Messrs. Fay, of *Chelsea*, Burbank, of *Lowell*, Williams, of *Brimfield*, Knight, of *Marblehead*, Hubbard, of *Tyringham*.

ON PUBLIC BUILDINGS.

Messrs. Leighton, of *Boston*, Mosman, of *Springfield*, Boyd, of *Charlestown*, Fales, of *Dedham*, Grant, of *Salem*.

ON PRINTING.

Messrs. Palfray, of *Salem*, Rossiter, of *Stockbridge*, Sampson, of *Duxbury*, Chapin, of *Worcester*, Elliott, of *Charlestown*.

MONITORS OF THE HOUSE.

1. MR. CUSHMAN, of *Bernardston.*
2. " DUNCAN, of *Hanover.*
3. " CRANE, of *Norton.*
4. " ATKINS, of *Provincetown.*
5. " RICHARDS, of *Braintree.*
6. " AVERY, of *Gloucester.*
7. " LEACH, of *Boston.*
8. " BANCROFT, of *Lowell.*

CONSTITUTION
OF
MASSACHUSETTS.

PREAMBLE.

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

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

We, therefore, the people of Massachusetts, ac-

knowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new Constitution of Civil Government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, DO agree upon, ordain and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH of MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

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

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

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

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

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

And all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there

be any on whose instructions he attends: otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised.

And every denomination of christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the law: And no subordination of any one sect or denomination to another shall ever be established by law.⁽¹⁾

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

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

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

⁽¹⁾ See Amendments, Art. 11.

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

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

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

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

of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

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

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

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

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

XIV.—Every subject has a right to be secure

from all unreasonable searches, and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the 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 the laws.

XV.—In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been 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, the legislature shall hereafter find it necessary to alter it.

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

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

XVIII.—A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to those of piety, justice, moderation,

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

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

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

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

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

XXIII.—No subsidy, charge, tax, impost, or du-

ties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

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

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

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

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

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

XXIX.—It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best

policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

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

PART THE SECOND.

The Frame of Government.

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

CHAPTER I.

The Legislative Power.

SECTION I.

The General Court.

ART. I.—The department of legislation shall be formed by two branches, a *Senate* and *House of*

Representatives: each of which shall have a negative on the other.

The legislative body shall assemble every year, on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May; and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

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

AND in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the Governor

within five days after it shall have been presented, the same shall have the force of a law.⁽¹⁾

III.—THE General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixt: and for the awarding and making out of execution thereupon: To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

IV.—AND further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming

⁽¹⁾ See Amendments, Art. I.

and settling all civil officers within the said Commonwealth, the election and constitution of whom are not hereafter in this Form of Government otherwise provided for; and to set forth the several duties, powers and limits of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this Constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose and levy reasonable duties and excises, upon any produce, goods, wares, merchandise, and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the Governor of this Commonwealth for the time being, with the advice and consent of the Council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

AND while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once in every ten years at least, and as much oftener as the General Court shall order.⁽¹⁾

⁽¹⁾ See Amendments, Art. 2, by which the General Court is authorized to erect and constitute municipal or city governments.

CHAPTER I.

SECTION II.

Senate.

ART. I.—THERE shall be annually elected by the freeholders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided, forty persons to be Counsellors and Senators for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the General Court for that purpose: And the General Court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the Commonwealth, the limits of each district, and the number of Counsellors and Senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six Senators.

AND the several counties in this Commonwealth shall, until the General Court shall determine it necessary to alter the said districts, be districts for the choice of Counsellors and Senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for Counsellors and Senators, viz :

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

II.—THE Senate shall be the first branch of the legislature ; and the Senators shall be chosen in the following manner, viz : There shall be a meeting on the first Monday in April annually, forever, of the inhabitants of each town in the several counties of this Commonwealth ; to be called by the Selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be Senators and Counsellors : And at such meetings, every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the Commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the Senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word “inhabitant” in this Constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district, or plantation, where he dwelleth, or hath his home.

The Selectmen of the several towns shall preside at such meetings impartially ; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for Senators, and shall sort and count them in open town meeting, and in presence of the Town-Clerk, who shall make a fair record in presence of the Selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name ; and a fair copy of this record shall be attested by the Selectmen and the Town-Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the Town-Clerk of such towns, to the Sheriff of

the county in which such town lies, thirty days at least before the last Wednesday in May annually; or it shall be delivered into the Secretary's office seventeen days at least before the said last Wednesday in May; and the Sheriff of each county shall deliver all such certificates by him received, into the Secretary's office seventeen days before the said last Wednesday in May.

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

III.—And that there may be a due convention of Senators on the last Wednesday in May annually, the Governor, with five of the Council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days

before the said day he shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day, and take their seats accordingly: Provided, nevertheless, that for the first year, the said returned copies shall be examined by the President and five of the Council of the former Constitution of Government; and the said President shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

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

V.—Provided, nevertheless, that no person shall be capable of being elected as a Senator, who is not

seized in his own right of a freehold within this Commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district, for which he shall be chosen.

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

VII.—The Senate shall choose its own President, appoint its own officers, and determine its own rules of proceeding.

VIII.—The Senate shall be a court with full authority to hear and determine all impeachments made by the House of Representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices. But, previous to the trial of every impeachment, the members of the Senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this Commonwealth: But the party, so convicted, shall be, nevertheless, liable to indictment, trial, judgment and punishment, according to the laws of the land.

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

CHAPTER I.

SECTION III.

House of Representatives.

ART. I.—There shall be in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

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

Provided nevertheless, that each town now incorporated, not having one hundred and fifty rateable polls, may elect one Representative: but no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are within the same one hundred and fifty rateable polls.⁽¹⁾

And the House of Representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this Constitution.

The expenses of travelling to the General Assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall at-

⁽¹⁾ See Amendments, Art. 12.

tend as seasonably as he can in the judgment of the House, and does not depart without leave.

III.—Every member of the House of Representatives shall be chosen by written votes; and for one year at least next preceding his election shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any rateable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.

IV.—Every male person, being twenty-one years of age, and resident in any particular town in this Commonwealth for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a Representative or Representatives for the said town.⁽¹⁾

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

VI.—The House of Representatives shall be the Grand Inquest of this Commonwealth; and all impeachments made by them shall be heard and tried by the Senate.

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

⁽¹⁾ See Amendments, Art. 3.

VIII.—The House of Representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

IX.—Not less than sixty members of the House of Representatives shall constitute a quorum for doing business.

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

And no member of the House of Representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the General Assembly.

XI.—The Senate shall have the same powers in the like cases; and the Governor and Council shall have the same authority to punish in like cases. Provided, that no imprisonment on the warrant or order of the Governor, Council, Senate, or House of Representatives, for either of the above described offences, be for a term exceeding thirty days.

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

CHAPTER II.

Executive Power.

SECTION I.

Governor.

ART. I.—There shall be a Supreme Executive Magistrate, who shall be styled, **THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS**; and whose title shall be—**HIS EXCELLENCY**.

II.—The Governor shall be chosen annually: And no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding; and unless he shall, at the same time, be seized in his own right, of a freehold within the Commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the christian religion.⁽¹⁾

III.—Those persons who shall be qualified to vote for Senators and Representatives within the several towns of this Commonwealth, shall, at a meeting, to be called for that purpose, on the first Monday of April annually, give in their votes for a

(1) See Amendments, Art. 7.

Governor, to the Selectmen, who shall preside at such meetings; and the Town Clerk, in the presence and with the assistance of the Selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the county, thirty days at least before the last Wednesday in May; and the Sheriff shall transmit the same to the Secretary's office seventeen days at least before the said last Wednesday in May; or the Selectmen may cause returns of the same to be made to the office of the Secretary of the Commonwealth seventeen days at least before the said day; and the Secretary shall lay the same before the Senate and the House of Representatives, on the last Wednesday in May, to be by them examined: And in case of an election by a majority of all the votes returned, the choice shall be by them declared and published: But if no person shall have a majority of votes, the House of Representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the Senate of the two persons so elected; on which, the Senate shall proceed by ballot, to elect one, who shall be declared Governor.⁽¹⁾

IV.—The Governor shall have authority, from time to time, at his discretion, to assemble and call together the Counsellors of this Commonwealth for the time being; and the Governor, with the said

⁽¹⁾ See Amendments, Art. 10.

Counsellors, or five of them at least, shall, and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, agreeably to the Constitution and the laws of the land.

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

And the Governor shall dissolve the said General Court on the day next preceding the last Wednesday in May.

VI.—In cases of disagreement between the two Houses, with regard to the necessity, expediency or time of adjournment, or prorogation, the Governor, with advice of the Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days, as he shall determine the public good shall require.

VII.—The Governor of this Commonwealth, for

the time being, shall be the Commander in Chief of the army and navy, and of all the military forces of the State, by sea and land ; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy ; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprises and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this Commonwealth ; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require ; and to take and 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 Commonwealth ; and that the Governor be intrusted with all these and other powers, incident to the offices of Captain-General and Commander in Chief, and Admiral, to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land, and not otherwise.

Provided, that the said Governor shall not, at any time hereafter, by virtue of any power by this Constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of

this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State, to which they cannot otherwise conveniently have access.

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

IX.—All judicial officers, the Attorney-General, the Solicitor-General, all Sheriffs, Coroners, and Registers of Probate, shall be nominated and appointed by the Governor, by and with the advice and consent of the Council; and every such nomination shall be made by the Governor, and made at least seven days prior to such appointment.

X.—The Captains and subalterns of the militia shall be elected by the written votes of the trainband and alarm list of their respective companies of twenty-one years of age and upwards: ⁽¹⁾ The field officers of Regiments shall be elected by the written votes of the captains and subalterns of their respective regiments: The Brigadiers shall be elected in like manner, by the field officers of their respective brigades: And such officers, so elected, shall

(¹) See Amendments, Art. 5.

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

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

The Major Generals shall be appointed by the Senate and House of Representatives, each having a negative upon the other; and be commissioned by the Governor.

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

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

The commanding officers of regiments shall appoint their Adjutants and Quarter masters; the Brigadiers their Brigade Majors; and the Major Generals their Aids: and the Governor shall appoint the Adjutant General.

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

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

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

XII.—All public boards, the Commissary General, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the Governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the said commanding officer shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors adjacent.

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

XIII.—As the public good requires that the Governor should not be under the undue influence

of any of the members of the General Court, by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: And it shall be among the first acts of the General Court, after the Commencement of this Constitution, to establish such salary by law accordingly.

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

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

CHAPTER II.

SECTION II.

Lieutenant Governor.

ART. I.—There shall be annually elected a Lieutenant Governor of the Commonwealth of Massachusetts, whose title shall be HIS HONOR—and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the Governor: And the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. The return of the votes for this officer, and the declaration of his election, shall be in the

same manner : And if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person shall have a majority of the votes of the people to be Governor.

II.—The Governor, and in his absence the Lieutenant Governor, shall be President of the Council, but shall have no vote in Council : And the Lieutenant Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant.

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

CHAPTER II.

SECTION III.

Council, and the Manner of Settling Elections, by the Legislature.

ART. I.—There shall be a Council for advising the Governor in the executive part of the government, to consist of nine persons besides the Lieutenant Governor, whom the Governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to

time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

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

III.—The Counsellors, in the civil arrangements of the Commonwealth, shall have rank next after the Lieutenant Governor.

IV.—Not more than two Counsellors shall be chosen out of any one district of this Commonwealth.

V.—The resolutions and advice of the Council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either House of the Legislature; and any member of the Council may insert his opinion contrary to the resolution of the majority.

VI.—Whenever the office of the Governor and Lieutenant Governor shall be vacant, by reason of death, absence, or otherwise, then the Council, or the major part of them, shall, during such vacancy, have full power and authority, to do, and execute, all and every such acts, matters and things, as the

Governor or the Lieutenant Governor might or could, by virtue of this Constitution, do or execute, if they, or either of them, were personally present.

VII.—And whereas the elections appointed to be made by this Constitution, on the last Wednesday in May annually, by the two Houses of the Legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows; the vacancies in the Senate, if any, shall first be filled up; the Governor and Lieutenant Governor shall then be elected, provided there should be no choice of them by the people: And afterwards the two Houses shall proceed to the election of the Council.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

ART. I.—The Secretary, Treasurer, and Receiver General,⁽¹⁾ and the Commissary General,⁽²⁾ Notaries Public,⁽³⁾ and Naval officers, shall be chosen annually by joint ballot of the Senators and Representatives in one room. And that the citizens of this Commonwealth may be assured, from time to time, that the monies remaining in the public Treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as Treasurer and Receiver General more than five years successively.

(1) See Amendments, Art. 4.

(2) See Amendments, Art. 4.

(3) See Amendments, Art. 4.

II.—The records of the Commonwealth shall be kept in the office of the Secretary, who may appoint his Deputies, for whose conduct he shall be accountable, and he shall attend the Governor and Council, the Senate and House of Representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

Judiciary Power.

ART. I.—The tenure that all commission officers shall by law have in their offices, shall be expressed in their respective commissions.⁽¹⁾ All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this Constitution: Provided, nevertheless, the Governor, with consent of the Council, may remove them upon the address of both Houses of the Legislature.

II.—Each branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinions of the Justices of the Supreme Judicial Court, upon important questions of law, and upon solemn occasions.

III.—In order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of Justices of the Peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any

⁽¹⁾ See Amendments, Art. 4.

commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the Commonwealth.

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

V.—All causes of marriage, divorce and alimony, and all appeals from the Judges of Probate, shall be heard and determined by the Governor and Council, until the Legislature shall, by law, make other provision.

CHAPTER IV.

Delegates to Congress.

The Delegates of this Commonwealth to the Congress of the United States, shall, sometime in the month of June annually, be elected by the joint ballot of the Senate and House of Representatives, assembled together in one room; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the Governor, and the great seal of the Commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.

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

SECTION I.

The University.

ART. I.—Whereas our wise and pious ancestors so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences, which qualified them for public employments, both in Church and State: And whereas the encouragement of Arts and Sciences, and all good literature, tends to the honor of GOD, the advantage of the christian religion, and the great benefit of this, and the other United States of America—It is declared, That the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy: And the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

II.—And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to

the President and Fellows of Harvard College, or to the said College, by some other description, under several charters successively: **IT IS DECLARED**, That all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the President and Fellows of Harvard College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

III.—And whereas, by an act of the General Court of the Colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the Governor and Deputy governor, for the time being, and all the magistrates of that jurisdiction, were, with the President, and a number of the clergy in the said act described, constituted the Overseers of Harvard College: And it being necessary, in this new Constitution of Government, to ascertain who shall be deemed successors to the said Governor, Deputy Governor and Magistrates: **IT IS DECLARED**, That the Governor, Lieutenant Governor, Council and Senate of this Commonwealth, are, and shall be deemed, their successors; who, with the President of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the Overseers of Harvard College: provided, that nothing herein shall be construed to prevent the Legislature of this Commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the

republic of letters, in as full a manner as might have been done by the Legislature of the late Province of the Massachusetts Bay.

CHAPTER V.

SECTION II.

The Encouragement of Literature, &c.

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

CHAPTER VI.

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

ART. I.—Any person chosen Governor, Lieutenant Governor, Counsellor, Senator, or Representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz :—

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

And the Governor, Lieutenant Governor, and Counsellors, shall make and subscribe the said declaration, in the presence of the two Houses of Assembly ; and the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution, and, forever afterwards, before the Governor and Council for the time being.

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

“ I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth

of Massachusetts is, and of right ought to be, a free, sovereign and independent State; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever: And that I do renounce and abjure all allegiance, subjection and obedience to the King, Queen or Government of Great Britain, (as the case may be) and every other foreign power whatsoever: And that no foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have, any jurisdiction, superiority, præeminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their constituents in the Congress of the United States: And I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptance of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me GOD."⁽¹⁾

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

Provided always, that when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline

(¹) See Amendments, Art. 6.

taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath; and in the second oath, the words "*swear and;*" and in each of them the words "*So help me GOD;*" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

And the said oaths or affirmations shall be taken and subscribed by the Governor, Lieutenant Governor, and Counsellors, before the President of the Senate, in the presence of the two Houses of Assembly; and by the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution; and forever afterwards before the Governor and Council for the time being: And by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the Legislature.⁽¹⁾

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

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz: Judge of Probate—Sheriff—Register of Probate—or Register of Deeds—and never more than any two offices

⁽¹⁾ See Amendments, Art. 7.

which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the House of Representatives, or by the election of the people of the State at large, or of the people of any county, military offices, and the offices of Justices of the Peace excepted, shall be held by one person.

No person holding the office of Judge of the Supreme Judicial Court—Secretary—Attorney General—Solicitor General—Treasurer or Receiver General—Judge of Probate—Commissary General—President, Professor, or Instructor of Harvard College—Sheriff—Clerk of the House of Representatives—Register of Probate—Register of Deeds—Clerk of the Supreme Judicial Court—Clerk of the Inferior Court of Common Pleas—or Officer of the Customs, including in this description Naval Officers—shall at the same time have a seat in the Senate or House of Representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the Senate or House of Representatives: and the place so vacated shall be filled up.

And the same rule shall take place in case any Judge of the said Supreme Judicial Court, or Judge of Probate, shall accept a seat in Council; or any Counsellor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the Legislature, or any office of trust or importance under the Government of this Commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.⁽¹⁾

⁽¹⁾ See Amendments, Art. 3.

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

IV.—All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the Governor, and attested by the Secretary or his Deputy, and have the great seal of the Commonwealth affixed thereto.

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

VI.—All the laws which have heretofore been adopted, used, and approved in the Province, Colony or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the Legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution.

VII.—The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and

pressing occasions, and for a limited time, not exceeding twelve months.

VIII.—The enacting style, in making and passing all acts, statutes, and laws, shall be—“Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same.”

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

X.—In order the more effectually to adhere to the principles of the Constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary—the General Court, which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the Selectmen of the several towns, and

to the Assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution, in order to amendments.

And if it shall appear, by the returns made, that two thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the General Court shall issue precepts, or direct them to be issued from the Secretary's office to the several towns, to elect Delegates to meet in Convention for the purpose aforesaid.

The said Delegates to be chosen in the same manner and proportion as their Representatives in the second branch of the Legislature are by this Constitution to be chosen.⁽¹⁾

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

(1) See Amendments, Art. 9.

ARTICLES OF AMENDMENT.*

ART. I.—If any bill or resolve shall be objected to, and not approved by the Governor; and if the General Court shall adjourn within five days after the same shall have been laid before the Governor for his approbation, and thereby prevent his returning it, with his objections, as provided by the Constitution; such bill or resolve shall not become a law, nor have force as such.

ART. 2.—The General Court shall have full power and authority to erect and constitute municipal or city governments in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges and immunities, not repugnant to the Constitution, as the General Court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards, or otherwise, for the election of officers under the Constitution, and the manner of returning the votes given at such meetings: Pro-

(*) The first nine Articles of Amendment were recommended by the Convention of 1820,—ratified by the people, April 9, 1821, and became part of the Constitution, May 30, 1821; the tenth was proposed by the Legislatures of 1829 and 1830,—ratified by the people, May 11, 1831, promulgated June 15, 1831, and went into operation October 1, 1831; the eleventh was proposed by the Legislatures of 1832 and 1833,—ratified by the people, November 11, 1833, and promulgated February 12, 1834; and the twelfth was proposed by the Legislatures of 1835 and 1836,—ratified by the people November 11, 1836, and promulgated March 24, 1837.

vided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants; nor unless it be with the consent and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose: And provided also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the General Court.

ART. 3.—Every male citizen of twenty-one years of age and upwards, (excepting paupers, and persons under guardianship,) who shall have resided within the Commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of Governor, Lieutenant Governor, Senators, or Representatives, and who shall have paid, by himself or his parent, master or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this Commonwealth; and also every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of Governor, Lieutenant Governor, Senators and Representatives: and no other person shall be entitled to vote in such election.

ART. 4.—Notaries Public shall be appointed by the Governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the Governor, with the consent of the Council, upon the address of both houses of the Legislature.

In case the office of Secretary or Treasurer of the Commonwealth shall become vacant from any cause,

during the recess of the General Court, the Governor, with the advice and consent of the Council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the General Court.

Whenever the exigencies of the Commonwealth shall require the appointment of a Commissary General, he shall be nominated, appointed and commissioned, in such manner as the Legislature may, by law, prescribe.

All officers commissioned to command in the Militia, may be removed from office in such manner as the Legislature may, by law, prescribe.

ART. 5.—In the elections of Captains and Subalterns of the Militia, all the members of their respective companies, as well those under, as those above the age of twenty-one years, shall have a right to vote.

ART. 6.—Instead of the oath of allegiance prescribed by the Constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the Government of this Commonwealth, before he shall enter on the duties of his office, to wit :

“I, A. B. do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the Constitution thereof. So help me God.”

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear,” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me God,” and subjoin-

ing, instead thereof, the words "this I do under the pains and penalties of perjury."

ART. 7.—No oath, declaration or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the Governor, Lieutenant Governor, Counsellors, Senators or Representatives, to qualify them to perform the duties of their respective offices.

ART. 8.—No judge of any Court of this Commonwealth, (except the Court of Sessions,) and no person holding any office under the authority of the United States, (Postmasters excepted,) shall, at the same time, hold the office of Governor, Lieutenant Governor or Counsellor, or have a seat in the Senate or House of Representatives of this Commonwealth; and no Judge of any Court in this Commonwealth, (except the Court of Sessions,) nor the Attorney General, Solicitor General, County Attorney, Clerk of any Court, Sheriff, Treasurer and Receiver General, Register of Probate, nor Register of Deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and Judges of the Courts of Common Pleas shall hold no other office under the government of this Commonwealth, the office of Justice of the Peace and Militia offices excepted.

ART. 9.—If, at any time hereafter, any specific and particular amendment or amendments to the Constitution, be proposed in the General Court, and agreed to by a majority of the Senators and two-thirds of the Members of the House of Representatives present and voting thereon, such proposed

amendment or amendments shall be entered on the journals of the two Houses, with the yeas and nays taken thereon, and referred to the General Court then next to be chosen, and shall be published; and if in the General Court next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the Senators and two thirds of the members of the House of Representatives present and voting thereon; then it shall be the duty of the General Court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the Constitution of this Commonwealth.

ART. 10.—The political year shall begin on the first Wednesday of January instead of the last Wednesday of May, and the General Court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the Constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the General Court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the Governor. But nothing herein contained shall prevent the General Court from assembling at such other times as they shall judge necessary, or when called together by the Governor. The Governor, Lieutenant Governor, and Counsellors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

The meeting for the choice of Governor, Lieu-

tenant Governor, Senators and Representatives, shall be held on the second Monday of November in every year, but meetings may be adjourned, if necessary, for the choice of Representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of Representatives, such meetings shall be held on the fourth Monday of the same month of November.

All the other provisions of the Constitution, respecting the elections and proceedings of the members of the General Court, or any other officers or persons whatever, that have reference to the last Wednesday of May as the commencement of the political year; shall be so far altered, as to have like reference to the first Wednesday of January.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the Constitution; and the Governor, Lieutenant Governor, Counsellors, Senators, Representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the Governor, Lieutenant Governor, Senators and Representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

All the provisions of the existing Constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

ART. 11.—As the Public Worship of God, and

instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a Republican Government; therefore, the several Religious Societies of this Commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for Public Worship, for the maintenance of religious instruction, and for the payment of necessary expenses: And all persons belonging to any Religious Society shall be taken, and held to be members, until they shall file with the Clerk of such Society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such Society: And all religious sects and denominations demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another, shall ever be established by law.

ART. 12.—In order to provide for a representation of the citizens of this Commonwealth, founded upon the principles of equality, a census of the ratable polls in each city, town, and district of the Commonwealth, on the first day of May, shall be taken and returned into the Secretary's office, in such manner as the Legislature shall provide within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one Representative, and

for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more.

Any town having less than three hundred ratable polls shall be represented thus; the whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred, and such town may elect one representative as many years within ten years as three hundred is contained in the product aforesaid.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented as to that surplus number by multiplying such surplus number by ten, and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years within the ten years as four hundred and fifty is contained in the product aforesaid.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts respectively, called for that purpose and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a representative or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The Governor and Council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives which each city, town and representative district is entitled to elect,

and the number of years within the period of ten years, then next ensuing, that each city, town and representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then how many years within the ten years such town may elect a representative; and the same shall be done once in ten years thereafter, by the Governor and Council, and the number of ratable polls in each decennial census of polls shall determine the number of representatives which each city, town and representative district may elect as aforesaid; and when the number of representatives, to be elected by each city, town or representative district, is ascertained and determined as aforesaid, the Governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

All the provisions of the existing Constitution inconsistent with the provisions herein contained, are hereby wholly annulled.

ART. 13.—A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the Secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter, which census shall determine the apportionment of Senators and Representatives for the term of ten years.

The several Senatorial Districts now existing, shall be permanent. The Senate shall consist of forty members: and in the year one thousand eight hundred and forty, and every tenth year thereafter, the Governor and Council shall assign the number of Senators to be chosen in each district, according

to the number of inhabitants in the same. But, in all cases, at least one Senator shall be assigned to each district.

The members of the House of Representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants, may elect one representative: and two thousand four hundred inhabitants shall be the mean increasing number which shall entitle it to an additional Representative.

Every town containing less than twelve hundred inhabitants, shall be entitled to elect a Representative as many times, within ten years, as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the Commonwealth shall be settled.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a Representative District, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

The number of inhabitants which shall entitle a town to elect one Representative, and the mean increasing number, which shall entitle a town or city to elect more than one, and also the number by which the population of towns, not entitled to a Representative every year, is to be divided, shall be increased respectively, by one tenth of the numbers above mentioned whenever the population of

the Commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one tenth shall be made respectively to the said numbers above mentioned.

In the year of each decennial census the Governor and Council shall, before the first day of September, apportion the number of Representatives which each city, town, and Representative District, is entitled to elect, and ascertain how many years, within ten years, any town may elect a Representative, which is not entitled to elect one every year; and the Governor shall cause the same to be published forthwith.

Nine counsellors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the Senators and Representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the Council, by death, resignation or otherwise. No person shall be elected a counsellor, who has not been an inhabitant of this Commonwealth, for the term of five years immediately preceding his election; and not more than one counsellor shall be chosen from any one Senatorial District in the Commonwealth.

No possession of a freehold or of any other estate shall be required as a qualification for holding a seat in either branch of the General Court, or in the Executive Council.

