

Constitution of New York (1777)

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Bei *Francis Newton Thorpe (Hrsg.)*, *The Federal and State Constitutions Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America. Compiled and Edited Under the Act of Congress of June 30, 1906, Band 5*, Washington 1909, S. 2623-2638, findet sich eine [gedruckte Fassung](#).

NEW YORK

For organic acts relating to the lands now included within New York see in this work :

- Virginia Charter of 1606 (Virginia, p. 3783).
- Council for New England, 1620 (Massachusetts, p. 1827).
- Dutch West India Company, 1621 (p. 59).
- Charter of Massachusetts Bay, 1629 (Massachusetts, p. 1846).
- Charter of Connecticut, 1662 (Connecticut, p. 529).
- Grant to the Duke of York, 1664 (Maine, p. 1637).
- Grant to the Duke of York, 1674 (Maine, p. 1641).
- Charter of Pennsylvania, 1681 (Pennsylvania, p. 3035).
- Commission to Andros, 1688 (Massachusetts, p. 1863).

CONSTITUTION OF NEW YORK—1777 *

IN CONVENTION OF THE REPRESENTATIVES
OF THE STATE OF NEW YORK,
Kingston, 20th April, 1777.

Whereas the many tyrannical and oppressive usurpations of the King and Parliament of Great Britain on the rights and liberties of the people of the American colonies had reduced them to the necessity of introducing a government by congresses and committees, as temporary expedients, and to exist no longer than the grievances of the people should remain without redress; And whereas the congress of the colony of New York did, on the thirty-first day of May now last past, resolve as follows, viz :

“Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the

* Verified from “Journals of the Provincial Congress, Provincial Convention Committee of Safety and Council of Safety of the State of New York, 1775, 1776-1777, vol. I. Albany: Printed by Thurlow Weed, printer to the State 1842.” pp. 892-898.

The Dutch, who began in 1613 to establish trading-posts on the Hudson River, claimed jurisdiction over the territory between the Connecticut and the Delaware Rivers, which they called New Netherlands. The government was vested in “The United New Netherland Company,” chartered in 1616, and then in “The Dutch West India Company,” chartered in 1621.

In 1649 a convention of the settlers petitioned the “Lords States-General of the United Netherlands” to grant them “suitable burgher government,” such as their High Mightinesses shall consider adapted to this province, and resembling somewhat the government of our Fatherland,” with certain permanent privileges and exemptions, that they might pursue “the trade of our country, as well along the coast from Terra Nova to Cape Florida as to the West Indies and Europe, whenever our Lord God shall be pleased to permit.”

The directors of the West India Company resented this attempt to shake off their rule, and wrote their director and council at New Amsterdam: “We have already connived as much as possible at the many impertinences of some restless spirits, in the hope that they might be shamed by our discreetness and benevolence, but, perceiving that all kindnesses do not avail, we must, therefore,

Crown of Great Britain, existed in full force, and was established for the sole purpose of opposing the usurpation of the British Parliament, and was intended to expire on a reconciliation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain;

“And whereas many and great inconveniences attend the said mode of government by congress and committees, as of necessity, in many instances, legislative, judicial, and executive powers have been vested therein, especially since the dissolution of the former government by the abdication of the late governor and the exclusion of this colony from the protection of the King of Great Britain;

“And whereas the Continental Congress did resolve as followeth, to wit:

“Whereas His Britannic Majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of Parliament, excluded the inhabitants of these united colonies from the protection of his Crown; and whereas no answers whatever to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain has been, or is likely to be, given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies; and whereas it appears absolutely irreconcilable to reason and good conscience for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the Crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said Crown should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies for the preservation of internal peace, virtue, and good order, as well as for the defense of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies: Therefore,

“Resolved, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.’

have recourse to God, to Nature, and the Law. We accordingly hereby charge and command your Honors, whenever you shall certainly discover any Clandestine Meetings, Conventicles, or machinations against our States' government or that of our country, that you proceed against such malignants in proportion to their crimes.”

These grants embraced all the lands between the west bank of the Connecticut River and the east bank of Delaware Bay. The Duke of York had previously purchased, in 1663, the grant of Long Island and other islands on the New England coast, made in 1635 to the Earl of Stirling, and in 1664 he equipped an armed expedition, which took possession of New Amsterdam, which was thenceforth called New York. This conquest was confirmed by the treaty of Breda, in July, 1667. In July, 1673, a Dutch fleet recaptured New York, and held it until it was restored to the English by the treaty of Westminster in February, 1674. The second grant was obtained by the Duke of York in July, 1674, to perfect his title. The original grants are in the New York State Library.

This constitution was framed by a convention which assembled at White Plains, July 10, 1776, and, after repeated adjournments and changes of location, terminated its labors at Kingston, Sunday evening, April 20, 1777, when the constitution was adopted, with but one dissenting vote. It was not submitted to the people for ratification. It was drafted by John Jay.

“ And whereas doubts have arisen whether this congress are invested with sufficient power and authority to deliberate and determine on so important a subject as the necessity of erecting and constituting a new form of government and internal police, to the exclusion of all foreign jurisdiction, dominion, and control whatever; and whereas it appertains of right solely to the people of this colony to determine the said doubts: Therefore,

“ *Resolved*, That it be recommended to the electors in the several counties in this colony, by election, in the manner and form prescribed for the election of the present congress, either to authorize (in addition to the powers vested in this congress) their present deputies, or others in the stead of their present deputies, or either of them, to take into consideration the necessity and propriety of instituting such new government as in and by the said resolution of the Continental Congress is described and recommended; and if the majority of the counties, by their deputies in provincial congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to secure the rights, liberties, and happiness of the good people of this colony; and to continue in force until a future peace with Great Britain shall render the same unnecessary; and

“ *Resolved*, That the said elections in the several counties ought to be had on such day, and at such place or places, as by the committee of each county respectively shall be determined. And it is recommended to the said committees to fix such early days for the said elections as that all the deputies to be elected have sufficient time to repair to the city of New York by the second Monday in July next; on which day all the said deputies ought punctually to give their attendance.

“ And whereas the object of the foregoing resolutions is of the utmost importance to the good people of this colony:

“ *Resolved*, That it be, and it is hereby, earnestly recommended to the committees, freeholders, and other electors in the different counties in this colony diligently to carry the same into execution.”

And whereas the good people of the said colony, in pursuance of the said resolution, and reposing special trust and confidence in the members of this convention, have appointed, authorized, and empowered them for the purposes, and in the manner, and with the powers in and by the said resolve specified, declared, and mentioned.

And whereas the Delegates of the United American States, in general Congress convened, did, on the fourth day of July now last past, solemnly publish and declare, in the words following, viz:

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

“ We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are, life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted

among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes, and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former system of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

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

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

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

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

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

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

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

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

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

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

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

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

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

“ For quartering large bodies of troops among us:

“ For protecting them, by a mock trial, from punishment for any murders they should commit on the inhabitants of these States:

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

“ For imposing taxes on us without our consent:

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

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

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

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

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

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

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

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

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

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

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

“ Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must therefore acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war; in peace, friends.

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

And whereas this convention, having taken this declaration into their most serious consideration, did, on the ninth day of July last past, unanimously resolve that the reasons assigned by the Continental Congress for declaring the united colonies free and independent States are cogent and conclusive; and that while we lament the cruel necessity which has rendered that measure unavoidable, we approve the same, and will, at the risk of our lives and fortunes, join with the other colonies in supporting it.

By virtue of which several acts, declarations, and proceedings mentioned and contained in the afore-cited resolves or resolutions of the general Congress of the United American States, and of the congresses or conventions of this State, all power whatever therein hath reverted to the people thereof, and this convention hath by their suffrages and free choice been appointed, and among other things authorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this State, most conducive of the happiness and safety of their constituents in particular, and of America in general.

I. This convention, therefore, in the name and by the authority of the good people of this State, doth ordain, determine, and declare that no authority shall, on any pretence whatever, be exercised over the people or members of this State but such as shall be derived from and granted by them.

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

III. And whereas laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed: Be it ordained, that the governor for the time being, the chancellor, and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature; and for that purpose shall assemble themselves from time to time, when the legislature shall be convened; for which, nevertheless, they shall not

receive any salary or consideration, under any pretence whatever. And that all bills which have passed the senate and assembly shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this State, that they return the same, together with their objections thereto in writing, to the senate or house of assembly (in which soever the same shall have originated) who shall enter the objection sent down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, two-thirds of the said senate or house of assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and, if approved by two-thirds of the members present, shall be a law.

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

IV. That the assembly shall consist of at least seventy members, to be annually chosen in the several counties, in the proportions following, viz:

For the city and county of New York, nine.

The city and county of Albany, ten.

The county of Dutchess, seven.

The county of Westchester, six.

The county of Ulster, six.

The county of Suffolk, five.

The county of Queens, four.

The county of Orange, four.

The county of Kings, two.

The county of Richmond, two.

Tryon County,^b six.

Charlotte County,^c four.

Cumberland County,^d three.

Gloucester County,^d two.

V. That as soon after the expiration of seven years (subsequent to the termination of the present war) as may be a census of the electors and inhabitants in this State be taken, under the direction of the legislature.^e And if, on such census, it shall appear that the number of representatives in assembly from the said counties is not justly proportioned to the number of electors in the said counties respectively,

^a The whole number of bills passed by the legislature under this constitution was six thousand five hundred and ninety. The council of revision objected to one hundred and twenty-eight, of which seventeen were passed notwithstanding these objections.—*Hough*.

^b Now Montgomery County.

^c Now Washington County.

^d Now included in the State of Vermont.

^e The first census under this constitution was taken in 1790. There were taken in 1795, 1801, 1807, 1814, and 1821.—*Hough*.

that the legislature do adjust and apportion the same by that rule. And further, that once in ever seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken, and if it shall thereupon appear that the number of electors in any county shall have increased or diminished one or more seventieth parts of the whole number of electors, which, on the said first census, shall be found in this State, the number of representatives for such county shall be increased or diminished accordingly, that is to say, one representative for every seventieth part as aforesaid.^a

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

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

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

VII. That every male inhabitant of full age, who shall have personally resided within one of the counties of this State for six months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this State: *Provided always*, That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New York on or before the fourteenth day of October, in the year of our Lord one

^a See amendments.

^b The first act under this clause was passed March 27, 1778, and introduced the practice of voting by ballot for governor and lieutenant-governor only, but retained the *viva voce* method for senators and assemblymen. By an act of February 13, 1787, the mode of voting by ballot for the latter was introduced. The boxes containing the ballots for governor, lieutenant-governor, and senators were returned by the sheriffs to the secretary of state, to be canvassed by a joint committee of the legislature, until March 27, 1799, when the system of inspection and canvassing by local wards was introduced.—*Hough*.

thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities, respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

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

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

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

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

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

^a Under this clause, a new arrangement of senatorial districts was made February 7, 1791; March 4, 1796; and April 17, 1815.—*Hough*.

and that the senate shall, in like manner with the assembly, be the judges of its own members. And be it ordained, that it shall be in the power of the future legislatures of this State, for the convenience and advantage of the good people thereof, to divide the same into such further and other counties and districts as shall to them appear necessary.

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

XIV. That neither the assembly or the senate shall have the power to adjourn themselves, for any longer time than two days, without the mutual consent of both.

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

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

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

XVIII. That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander-in-chief of all the militia, and admiral of the navy of this State; that he shall have power to convene the assembly and senate on extraordinary occasions; to prorogue them from time to time, provided such prorogations shall

^a See amendment.

not exceed sixty days in the space of any one year; and, at his discretion, to grant reprieves and pardons to persons convicted of crimes, other than treason or murder, in which he may suspend the execution of the sentence, until it shall be reported to the legislature at their subsequent meeting; and they shall either pardon or direct the execution of the criminal, or grant a further reprieve.

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

XX. That a lieutenant-governor shall, at every election of a governor, and as often as the lieutenant-governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor; and such lieutenant-governor shall, by virtue of his office, be president of the senate, and, upon an equal division, have a casting voice in their decisions, but not vote on any other occasion. And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor until another be chosen, or the governor absent or impeached shall return or be acquitted: *Provided*, That where the governor shall, with the consent of the legislature, be out of the State, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of this State both by sea and land.

XXI. That whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate shall, in like manner as the lieutenant-governor, administer the government, until others shall be elected by the suffrage of the people, at the succeeding election.

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

XXIII. That all officers, other than those who, by this constitution, are directed to be otherwise appointed, shall be appointed in the manner following, to wit: The assembly shall, once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council for the appointment of the said officers, of which the governor for the time being, or the lieutenant-governor, or the president of the senate, when they shall respectively administer the government, shall be president and have a casting voice, but no other vote; and with the advice and consent of the said

council, shall appoint all the said officers; and that a majority of the said council be a quorum.^a And further, the said senators shall not be eligible to the said council for two years successively.

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

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

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

XXVII. *And be it further ordained,* That the register and clerks in chancery be appointed by the chancellor; the clerks of the supreme court, by the judges of the said court; the clerk of the court of probate, by the judge of the said court; and the register and marshal of the court of admiralty, by the judge of the admiralty. The said marshal, registers, and clerks to continue in office during the pleasure of those by whom they are appointed as aforesaid.

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

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

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

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

XXX. That Delegates to represent this State in the general Congress of the United States of America be annually appointed as follows, to wit: The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of Delegates to be appointed; after which nomination they shall meet together, and those persons named in both lists shall be Delegates; and out of

^a See amendment.

those persons whose names are not on both lists, one-half shall be chosen by the joint ballot of the senators and members of assembly so met together as aforesaid.

XXXI. That the style of all laws shall be as follows, to wit: "*Be it enacted by the people of the State of New York, represented in senate and assembly;*" and that all writs and other proceedings shall run in the name of "The people of the State of New York," and be tested in the name of the chancellor, or chief judge of the court from whence they shall issue.

XXXII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that a court shall be instituted for the trial of impeachments, and the correction of errors, under the regulations which shall be established by the legislature; and to consist of the president of the senate, for the time being, and the senators, chancellor, and judges of the supreme court, or the major part of them; except that when an impeachment shall be prosecuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office until his acquittal; and, in like manner, when an appeal from a decree in equity shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error, on a question of law, on a judgment in the supreme court, the judges of that court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

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

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

XXXV. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this State, subject to such alterations and provisions as the legislature of this State shall, from time to time, make concerning the same. That such of the said acts, as are temporary,

shall expire at the times limited for their duration, respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of Christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives claimed or exercised by, the King of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this constitution, be, and they hereby are, abrogated and rejected. And this convention doth further ordain, that the resolves or resolutions of the congresses of the colony of New York, and of the convention of the State of New York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this State; subject, nevertheless, to such alterations and provisions as the legislature of this State may, from time to time, make concerning the same.

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

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

XXXVIII. And whereas we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further, in the name

and by the authority of the good people of this State, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this State, to all mankind: *Provided*, That the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

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

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

XLI. And this convention doth further ordain, determine, and declare, in the name and by the authority of the good people of this State, that trial by jury, in all cases in which it hath heretofore been used in the colony of New York, shall be established and remain inviolate forever. And that no acts of attainder shall be passed by the legislature of this State for crimes, other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood.^b And further, that the legislature of this State shall, at no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

XLII. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that it shall be in the discretion of the legislature to naturalize all such persons, and in such manner, as they shall think proper: *Provided*, All such of the persons so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America, shall come to settle in and become subjects of this State,

^a This exemption-fee was fixed at £10 per annum by the act of April 3, 1778, organizing the militia of the State.—*Hough*.

^b By an act of October 23, 1779, fifty-eight persons, of whom three were females, were attainted and banished from the State for adherence to the enemy. This is the only act passed under the above clause.—*Hough*.

shall take an oath of allegiance to this State, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and State in all matters, ecclesiastical as well as civil.^a

By order.

LEONARD GANSEVOORT,
President pro tempore.

AMENDMENTS TO THE CONSTITUTION OF 1777 * ^b

IN CONVENTION OF DELEGATES,
Albany, October 27, 1801.

Whereas the legislature of this State, by their act passed the sixth day of April last, did propose to the citizens of this State to elect by ballot delegates to meet in convention, "for the purpose of considering the parts of the constitution of this State respecting the number of senators and members of assembly in this State, and with power to reduce and limit the number of them as the said convention might deem proper; and also for the purpose of considering and determining the true construction of the twenty-third article of the constitution of this State, relative to the right of nomination to office;"

And whereas the people of this State have elected the members of this convention for the purpose above expressed; and this convention having maturely considered the subjects thus submitted to their determination, do, in the name and by the authority of the people of this State, ordain, determine, and declare:

I. That the number of the members of the assembly hereafter to be elected shall be one hundred, and shall never exceed one hundred and fifty.

II. That the legislature at their next session shall apportion the said one hundred members of the assembly among the several counties of this State, as nearly as may be, according to the number of electors which shall be found to be in each county by the census directed to be taken in the present year.

III. That from the first Monday in July next, the number of the senators shall be permanently thirty-two, and that the present number of senators shall be reduced to thirty-two in the following manner, that is to say: The seats of the eleven senators composing the first class, whose time of service will expire on the first Monday in July next, shall not be filled up; and out of the second class the seats of one senator from the middle district and of one senator from the

* See "Journal of the Convention of the State of New York, Begun and held at the city of Albany on the 13th Day of October, 1801. Albany: Printed by John Barber, Printer to the Convention, MDCCCI." pp. 42.

^a The custom of naturalizing aliens by special act was first introduced by the colonial general assembly in 1717, and was continued by the State legislature until the adoption of the Federal Constitution in 1789. After that date the right to hold land upon declaring an intention to become naturalized was granted by special act until 1825, when a general law for this purpose was passed.—*Hough.*

^b These amendments were framed by a convention which assembled at Albany October 13, 1801, and terminated its labors October 27, 1801. They were not submitted to the people for ratification.