

**CONSTITUTION OF SOUTH CAROLINA—1790 \* †**

We, the delegates of the people of the State of South Carolina, in general convention met, do ordain and establish this constitution for its government.

**ARTICLE I**

**SECTION 1.** The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

**SEC. 2.** The house of representatives shall be composed of members chosen by ballot every second year, by the citizens of this State, qualified as in this constitution provided.

**SEC. 3.** The several election districts in this State shall elect the following number for Representatives, viz:

Charleston, (including Saint Philip and Saint Michael,) fifteen members; Christ Church, three members; Saint John, Berkley, three members; Saint Andrew, three members; Saint George, Dorchester, three members; Saint James, Goose Creek, three members; Saint Thomas and Saint Dennis, three members; Saint Paul, three members; Saint Bartholomew, three members; Saint James, Santee, three members; Saint John, Colleton, three members; Saint Stephen, three members; Saint Helena, three members; Saint Luke, three members; Prince William, three members; Saint Peter, three members; All Saints, (including its ancient boundaries,) one member; Winyaw, (not including any part of All Saints,) three members; Kingston, (not including any part of All Saints,) two members; Williamsburgh, two members; Liberty, two members; Marlborough, two members; Chesterfield, two members; Darlington, two members; York, three members; Chester, two members; Fairfield, two members; Richland, two members; Lancaster, two members; Kershaw, two members; Claremont, two members; Clarendon, two members; Abbeville, three members; Edgefield, three members; Newbury, (including the fork between Broad and Saluda Rivers,) three members; Laurens, three members; Union, two members; Spartan, two members; Greenville, two members; Pendleton, three members; Saint Matthew, two members; Orange, two members; Winton, (including the district between Savannah River and the North Fork of Edisto,) three members; Saxe Gotha, three members.

**SEC. 4.** Every free white man, of the age of twenty-one years, being a citizen of this State, and having resided therein two years previous to the day of election, and who hath a freehold of fifty acres of land or a town lot, of which he hath been legally seized and possessed at least six months before such election, or, not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote six months before the said

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\* Verified by "The Constitution of the United States according to the Latest Amendments. Philadelphia. Printed by E. Oswald. 1796."

Also by "Cooper's Statutes of South Carolina," vol. I, pp. 184-197.

† This constitution was framed by a convention which assembled at Columbia, and completed its labors June 3, 1790. It was not submitted to the people for ratification.

election, and hath paid a tax the preceding year of three shillings sterling towards the support of this government, shall have a right to vote for a member or members to serve in either branch of the legislature for the election district in which he holds such property or is so resident.

SEC. 5. The returning officer, or any other person present entitled to vote, may require any person who shall offer his vote at an election to produce a certificate of his citizenship and a receipt from the tax collector of his having paid a tax entitling him to vote, or to swear or affirm that he is duly qualified to vote, agreeably to this constitution.

SEC. 6. No person shall be eligible to a seat in the house of representatives unless he is a free white man, of the age of twenty-one years, and hath been a citizen and resident in this State three years previous to his election. If a resident in the election district, he shall not be eligible to a seat in the house of representatives unless he be legally seized and possessed in his own right of a settled freehold estate of five hundred acres of land and ten negroes, or of a real estate of the value of one hundred and fifty pounds sterling, clear of debt. If a non-resident, he shall be legally seized and possessed of a settled freehold estate therein of the value of five hundred pounds sterling, clear of debt.

SEC. 7. The senate shall be composed of members to be chosen for four years, in the following proportions, by the citizens of this State qualified to elect members to the house of representatives, at the same time, and in the same manner, and at the same places where they shall vote for representatives, viz: Charleston, (including Saint Philip and Saint Michael.) two members; Christ Church, one member; Saint John, Berkley, one member; Saint Andrew, one member; Saint George, one member; Saint James, Goose Creek, one member; Saint Thomas and Saint Dennis, one member; Saint Paul, one member; Saint Bartholomew, one member; Saint James, Santee, one member; Saint John, Colleton, one member; Saint Stephen, one member; Saint Helena, one member; Saint Luke, one member; Prince William, one member; Saint Peter, one member; All Saints, one member; Winyaw and Williamsburgh, one member; Liberty and Kingstons, one member; Marlborough, Chesterfield, and Darlington, two members; York, one member; Fairfield, Richland, and Chester, one member; Lancaster and Kershaw, one member; Clarendon and Clarendon, one member; Abbeville, one member; Edgefield, one member; Newbury, (including the Fork between Broad and Saluda Rivers,) one member; Lourens, one member; Union, one member; Spartan, one member; Greenville, one member; Pendleton, one member; Saint Matthew and Orange, one member; Winton, (including the district between Savannah River and the North Fork of Edisto,) one member; Saxe Gotha, one member.

SEC. 8. No person shall be eligible to a seat in the senate unless he is a free white man, of the age of thirty years, and hath been a citizen and resident in this State five years previous to his election. If a resident in the election district, he shall not be eligible unless he be legally seized and possessed, in his own right, of a settled freehold estate of the value of three hundred pounds sterling, clear of debt. If a non-resident in the election district, he shall not be eligible unless

he be legally seized and possessed in his own right of a settled freehold estate in the said district of the value of one thousand pounds sterling, clear of debt.

SEC. 9. Immediately after the senators shall be assembled, in consequence of the first election, they shall be divided by lot into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year; so that one-half thereof, as near as possible, may be chosen, forever thereafter, every second year, for the term of four years.

SEC. 10. Senators and members of the house of representatives shall be chosen on the second Monday in October next, and the day following, and on the same days, in every second year thereafter, in such manner and at such times as are herein directed; and shall meet on the fourth Monday in November annually at Columbia, (which shall remain the seat of government, until otherwise determined, by the concurrence of two-thirds of both branches of the whole representation,) unless the casualties of war or contagious disorders should render it unsafe to meet there; in either of which cases, the governor, or commander-in-chief for the time being, may, by proclamation, appoint a more secure and convenient place of meeting.

SEC. 11. Each house shall judge of the elections, returns, and qualifications of its own members; and a majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as may be provided by law.

SEC. 12. Each house shall choose by ballot its own officers, determine its rules of proceeding, punish its members for disorderly behavior, and (with the concurrence of two-thirds) expel a member, but not a second time for the same cause.

SEC. 13. Each house may punish, by imprisonment, during sitting, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to the body or estate of any member, for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness, or other person, ordered to attend the house, in his going to or returning therefrom, or who shall rescue any person arrested by order of the house.

SEC. 14. The members of both houses shall be protected in their persons and estates, during their attendance on, going to, and returning from, the legislature, and ten days previous to their sitting, and ten days after the adjournment of the legislature. But these privileges shall not be extended so as to protect any member who shall be charged with treason, felony, or breach of the peace.

SEC. 15. Bills for raising a revenue shall originate in the house of representatives, but may be altered, amended, or rejected by the senate. All other bills may originate in either house, and may be amended, altered, or rejected by the other.

SEC. 16. No bill or ordinance shall have the force of law, until it shall have been read three times, and on three several days, in each

house, has had the great seal affixed to it, and has been signed in the senate-house, by the president of the senate and speaker of the house of representatives.

SEC. 17. No money shall be drawn out of the public treasury, but by the legislative authority of the State.

SEC. 18. The members of the legislature, who shall assemble under this constitution, shall be entitled to receive out of the public treasury, as compensation for their expenses, a sum not exceeding seven shillings sterling a day, during their attendance on, going to, and returning from the legislature; but the same may be increased or diminished by law, if circumstances shall require; but no alterations shall be made by any legislature to take effect during the existence of the legislature which shall make such alteration.

SEC. 19. Neither house shall, during their session, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 20. No bill or ordinance which shall have been rejected by either house shall be brought in again during the sitting, without leave of the house, and notice of six days being previously given.

SEC. 21. No person shall be eligible to a seat in the legislature whilst he holds any office of profit or trust under this State, the United States, or either of them, or under any other power, except officers in the militia, army or navy of this State, justices of the peace, or justices of the county courts, while they receive no salaries; nor shall any contractor of the army or navy of this State, the United States, or either of them, or the agents of such contractor, be eligible to a seat in either house. And if any member shall accept or exercise any of the said disqualifying offices, he shall vacate his seat.

SEC. 22. If any election district shall neglect to choose a member or members on the days of election, or if any person chosen a member of either house should refuse to qualify and take his seat, or should die, depart the State, or accept of any disqualifying office, a writ of election shall be issued by the president of the senate, or speaker of the house of representatives, (as the case may be,) for the purpose of filling up the vacancy thereby occasioned for the remainder of the term for which the person so refusing to qualify, dying, departing the State, or accepting a disqualifying office was elected to serve.

SEC. 23. 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 public preacher of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of governor, lieutenant-governor, or to a seat in the senate or house of representatives.

## ARTICLE II

SECTION 1. The executive authority of this State shall be invested in a governor, to be chosen in manner following: As soon as may be after the first meeting of the senate and house of representatives, and at every first meeting of the house of representatives thereafter, when a majority of both houses shall be present, the senate and house of

representatives shall, jointly, in the house of representatives, choose, by ballot, a governor to continue for two years, and until a new election shall be made.

SEC. 2. No person shall be eligible to the office of governor unless he hath attained the age of thirty years, and hath resided within this State and been a citizen thereof ten years, and unless he be seized and possessed of a settled estate within the same, in his own right, of the value of fifteen hundred pounds sterling, clear of debt.

No person having served two years as governor shall be reëligible to that office till after the expiration of four years.

No person shall hold the office of governor and any other office or commission, civil or military, (except in the militia,) either in this State, or under any State, or the United States, or any other power, at one and the same time.

SEC. 3. A lieutenant-governor shall be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the governor.

SEC. 4. A member of the senate or house of representatives being chosen and acting as governor or lieutenant-governor, shall vacate his seat, and another person shall be elected in his stead.

SEC. 5. In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the lieutenant-governor shall succeed to his office. And in case of the impeachment of the lieutenant-governor, or his removal from office, death, resignation, or absence from the State, the president of the senate shall succeed to his office till a nomination to those offices respectively shall be made by the senate and house of representatives for the remainder of the time for which the officer so impeached, removed from office, dying, resigning, or being absent was elected.

SEC. 6. The governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the actual service of the United States.

SEC. 7. He shall have power to grant reprieves and pardons, after conviction, (except in cases of impeachment,) in such manner, on such terms, and under such restrictions as he shall think proper; and he shall have power to remit fines and forfeitures unless otherwise directed by law.

SEC. 8. He shall take care that the laws be faithfully executed in mercy.

SEC. 9. He shall have power to prohibit the exportation of provision for any time not exceeding thirty days.

SEC. 10. He shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected.

SEC. 11. All officers in the executive department, when required by the governor, shall give him information in writing upon any subject relating to the duties of their respective offices.

SEC. 12. The governor shall, from time to time, give to the general assembly information of the condition of the State, and recommend to their consideration such measures as he shall judge necessary or expedient.

SEC. 13. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment adjourn them to such time as he

shall think proper, not beyond the fourth Monday in the month of November then ensuing.

### ARTICLE III

SECTION 1. The judicial power shall be vested in such superior and inferior courts of law and equity as the legislature shall, from time to time, direct and establish.

The judges of each shall hold their commissions during good behavior; and judges of the superior courts shall, at stated times, receive a compensation for their services, which shall neither be increased or diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States, or any other power.

SEC. 2. The style of all processes shall be "The State of South Carolina." All prosecutions shall be carried on in the name and by the authority of the State of South Carolina, and conclude "against the peace and dignity of the same."

### ARTICLE IV <sup>a</sup>

All persons who shall be chosen or appointed to any office of profit or trust, before entering on the execution thereof, shall take the following oath: "I do swear [or affirm] that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been appointed, and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the Constitution of this State and of the United States."

### ARTICLE V

SECTION 1. The house of representatives shall have the sole power of impeaching; but no impeachment shall be made unless with the concurrence of two-thirds of the house of representatives.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor, lieutenant-governor, and all the civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to a removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

### ARTICLE VI

SECTION 1. The judges of the superior courts, commissioners of the treasury, secretary of the State, and surveyor-general shall be elected

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<sup>a</sup>Amendment, 1860. See Journal of the Convention of the People of South Carolina. Held in 1860, 1861, and 1862. Together with the Ordinances, Reports, Resolutions, etc. Published by Order of the Convention. Columbia, S. C.: R. W. Gibbes, Printer to the Convention, p. 52.

by the joint ballot of both houses in the house of representatives. The commissioners of the treasury, secretary of this State, and surveyor-general shall hold their offices for four years; but shall not be eligible again for four years after the expiration of the time for which they shall have been elected.

SEC. 2. All other officers shall be appointed as they hitherto have been, until otherwise directed by law; but sheriffs shall hold their offices for four years, and not be again eligible for four years after the term for which they shall have been elected.

SEC. 3. All commissions shall be in the name and by the authority of the State of South Carolina, and be sealed with the seal of the State, and be signed by the governor.

#### ARTICLE VII

All laws of force in this State at the passing of this constitution shall so continue, until altered or repealed by the legislature, except where they are temporary, in which case they shall expire at the times respectively limited for their duration, if not continued by act of the legislature.

#### ARTICLE VIII

SECTION 1. 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 thereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 2. The rights, privileges, immunities, and estates of both civil and religious societies, and of corporate bodies, shall remain as if the constitution of this State had not been altered or amended.

#### ARTICLE IX

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

SEC. 2. No freemen of this State shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land; nor shall any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, ever be passed by the legislature of this State.

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

SEC. 4. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 5. The legislature shall not grant any title of nobility, or hereditary distinction, nor create any office the appointment to which shall be for any longer time than during good behavior.

SEC. 6. The trial by jury, as heretofore used in this State, and the liberty of the press, shall be forever inviolably preserved.

## ARTICLE X

SECTION 1. The business of the treasury shall be in future conducted by two treasurers, one of whom shall hold his office and reside at Columbia; the other shall hold his office and reside in Charleston.

SEC. 2. The secretary of state and surveyor-general shall hold their offices both in Columbia and Charleston. They shall reside at one place, and their deputies at the other.

SEC. 3. At the conclusion of the circuits, the judges shall meet and sit at Columbia, for the purpose of hearing and determining all motions which may be made for new trials, and in arrest of judgments, and such points of law as may be submitted to them. From Columbia, they shall proceed to Charleston, and there hear and determine all such motions for new trials, and in arrest of judgment, and such points of law as may be submitted to them.

SEC. 4. The governor shall always reside, during the sitting of the legislature, at the place where their session may be held; and, at all other times, wherever, in his opinion, the public good may require.

SEC. 5. The legislature shall, as soon as may be convenient, pass laws for the abolition of the rights of primogeniture, and for giving an equitable distribution of the real estate of intestates.

## ARTICLE XI

No convention of the people shall be called, unless by the concurrence of two-thirds of both branches of the whole representation.

No part of this constitution shall be altered, unless a bill to alter the same shall have been read three times in the house of representatives, and three times in the senate, and agreed to by two-thirds of both branches of the whole representation; neither shall any alteration take place until the bill so agreed to be published three months previous to a new election for members to the house of representatives; and if the alteration proposed by the legislature shall be agreed to, in their first session, by two-thirds of the whole representation in both branches of the legislature, after the same shall have been read three times, or three several days, in each house, then, and not otherwise, the same shall become a part of the constitution.

Done in convention at Columbia, in the State of South Carolina, the third day of June, in the year of our Lord 1790, and in the fourteenth year of the Independence of the United States of America.

By the unanimous order of the convention.

CHARLES PINCKNEY, *President.*

## AMENDMENTS TO THE CONSTITUTION OF 1790

(Ratified December 17, 1808)

The following sections in amendment of the third, seventh, and ninth sections of the first article of the constitution of this State shall be, and they are hereby declared to be, valid parts of the said constitution; and the said third, seventh, and ninth sections, or such



parts thereof as are repugnant to such amendments, are hereby repealed and made void.

The house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several election districts of the State, according to the number of white inhabitants contained, and the amount of all taxes raised by the legislature, whether direct or indirect, or of whatever species, paid in each, deducting therefrom all taxes paid on account of property held in any other district, and adding thereto all taxes elsewhere paid on account of property held in such district. An enumeration of the white inhabitants, for this purpose, shall be made in the year one thousand eight hundred and nine, and in the course of every tenth year thereafter, in such manner as shall be by law directed; and representatives shall be assigned to the different districts in the above-mentioned proportion, by act of the legislature, at the session immediately succeeding the above enumeration.

If the enumeration herein directed should not be made in the course of the year appointed for the purpose by these amendments, it shall be the duty of the governor to have it effected as soon thereafter as shall be practicable.

In assigning representatives to the several districts of the State, the legislature shall allow one representative for every sixty-second part of the whole number of white inhabitants in the State; and one representative also for every sixty-second part of the whole taxes raised by the legislature of the State. The legislature shall further allow one representative for such fractions of the sixty-second part of the white inhabitants of the State, and of the sixty-second part of the taxes raised by the legislature of the State, as, when added together, form a unit.

In every apportionment of representation under these amendments, which shall take place after the first apportionment, the amount of taxes shall be estimated from the average of the ten preceding years; but the first apportionment shall be founded upon the tax of the preceding year, excluding from the amount thereof the whole produce of the tax on sales at public auction.

If, in the apportionment of representatives under these amendments, any election district shall appear not to be entitled, from its population and its taxes, to a representative, such election district shall, nevertheless, send one representative; and, if there should be still a deficiency of the number of representatives required by these amendments, such deficiency shall be supplied by assigning representatives to those election districts having the largest surplus fractions, whether those fractions consist of a combination of population and of taxes, or of population or of taxes separately, until the number of one hundred and twenty-four members be provided.

No apportionment under these amendments shall be construed to take effect, in any manner, until the general election which shall succeed such apportionment.

The election districts for members of the house of representatives shall be and remain as heretofore established, except Saxe Gotha and Newberry; in which the boundaries shall be altered, as follows, viz: That part of Lexington in the fork of Broad and Saluda Rivers shall no longer compose a part of the election district of Newberry, but shall be henceforth attached to, and form a part of, Saxe Gotha. And,

also, except Orange and Barnwell, or Winton, in which the boundaries shall be altered, as follows, viz: That part of Orange in the fork freehold or town lot, hath been a resident in the election district in Barnwell, or Winton, but shall be henceforth attached to, and form a part of, Orange election district.

The senate shall be composed of one member from each election district, as now established for the election of members of the house of representatives, except the district formed by the parishes of Saint Philip and Saint Michael, to which shall be allowed two senators, as heretofore.

The seats of those senators who under the constitution shall represent two or more election districts, on the day preceding the second Monday of October, which will be in the year one thousand eight hundred and ten, shall be vacated on that day, and the new senators who shall represent such districts under these amendments shall, immediately after they shall have been assembled under the first election, be divided by lots into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class, at the expiration of the fourth year; and the number in these classes shall be so proportioned that one-half of the whole number of senators may, as nearly as possible, continue to be chosen thereafter every second year.

None of these amendments becoming parts of the constitution of this State shall be altered, unless a bill to alter the same shall have been read on three several days in the house of representatives, and on three several days in the senate, and agreed to at the second and third reading by two-thirds of the whole representation in each branch of the legislature; neither shall any alteration take place until the bill so agreed to be published three months previous to a new election for members to the house of representatives; and if the alteration proposed by the legislature shall be agreed to in their first session, by two-thirds of the whole representation, in each branch of the legislature, after the same shall have been read on three several days in each house, then, and not otherwise, the same shall become a part of the constitution.

(Ratified December 19, 1810)

That the fourth section of the first article of the constitution of this State be altered and amended to read as follows: Every free white man of the age of twenty-one years, paupers, and non-commissioned officers and private soldiers of the Army of the United States excepted, being a citizen of this State, and having resided therein two years previous to the day of election, and who hath a freehold of fifty acres of land or a town lot, of which he hath been legally seized and possessed at least six months before such election, or not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote six months before the said election, shall have a right to vote for a member or members to serve in either branch of the legislature, for the election district in which he holds such property, or is so resident.

(Ratified December 19, 1816)

That the third section of the tenth article of the constitution of this State be altered and amended to read as follows: The judges

