

SEC. 24. The elections to be held in pursuance of this act shall be held on the first Wednesday of October, in the year eighteen hundred and thirty-eight; and for the election of delegates on the same day in every year thereafter, for the election of governor on the same day in every third year thereafter, and for the election of senators of the first class, on the same day, in the second year after their election and classification, and on the same day in every sixth year thereafter; and for the election of senators of the second class, on the same day in the fourth year after their election and classification, and on the same day in every sixth year thereafter; and for the election of senators of the third class, on the same day, in the sixth year after their election and classification, and on the same day in every sixth year thereafter.

SEC. 25. In all elections for governor, the city of Annapolis shall be deemed and taken as part of Anne Arundel County.

SEC. 26. The relation of master and slave, in this State, shall not be abolished, unless a bill so to abolish the same shall be passed by a unanimous vote of the members of each branch of the general assembly, and shall be published at least three months before a new election of delegates, and shall be confirmed by a unanimous vote of the members of each branch of the general assembly, at the next regular constitutional session after such new election, nor then, without full compensation to the master for the property of which he shall be thereby deprived.

SEC. 27. The city of Annapolis shall continue to be the seat of government, and the place of holding the sessions of the court of appeals for the western shore, and the high court of chancery.

SEC. 28. If this act shall be confirmed by the general assembly, after a new election of delegates, in the first session after such new election, agreeably to the provisions of the constitution and form of government, then and in such case this act, and the alterations and amendments of the constitution therein contained, shall be taken and considered, and shall constitute and be valid, as a part of said constitution and form of government, anything in the said constitution and form of government to the contrary notwithstanding.

(Ratified 1846)

ART. XXVI. That the sessions of the general assembly be biennial instead of annual.

CONSTITUTION OF MARYLAND—1851 * a

THE DECLARATION OF RIGHTS

We, the people of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good constitution in this State, for the sure foundation and more permanent security thereof, declare:

ARTICLE 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of

*Verified from Edward Otis Hinkley's edition. Baltimore: John Murphy & Co., No. 178 Market street. 1855. pp. 104.

^a This constitution was framed by a convention which met at Annapolis November 4, 1850, and completed its labors May 13, 1851. It was ratified by the people June 4, 1851.

the whole; and they have at all times, according to the mode prescribed in this constitution, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may deem expedient.

ART. 2. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

ART. 3. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six, and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used, and practised by the courts of law or equity, and also of all acts of assembly in force on the first Monday of November, eighteen hundred and fifty, except such as may have since expired, or may be altered by this constitution, subject, nevertheless, to the revision of, and amendment or repeal by the legislature of this State; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by His Majesty Charles the First to Cæcilius Calvert, Baron of Baltimore.

ART. 4. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

ART. 5. That the right of the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose elections ought to be free and frequent, and every free white male citizen having the qualifications prescribed by the constitution ought to have the right of suffrage.

ART. 6. That the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other.

ART. 7. That no power of suspending laws, or the execution of laws, unless by or derived from the legislature, ought to be exercised or allowed.

ART. 8. That freedom of speech and debate, or proceedings in the legislature, ought not to be impeached in any court of judicature.

ART. 9. That Annapolis be the place for the meeting of the legislature; and the legislature ought not to be convened or held at any other place but from evident necessity.

ART. 10. That for the redress of grievances, and for amending, strengthening, and preserving the laws, the legislature ought to be frequently convened.

ART. 11. That every man hath a right to petition the legislature for the redress of grievances in a peaceable and orderly manner.

ART. 12. That no aid, charge, tax, burden, or fees ought to be rated or levied, under any pretence, without the consent of the legislature.

ART. 13. That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of government, but every other person in the State, or person holding property therein, ought to contribute his proportion of public taxes, for the support of government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid on persons or property, with a political view, for the good government and benefit of the community.

ART. 14. That sanguinary laws ought to be avoided as far as is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

ART. 15. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* law ought to be made.

ART. 16. That no law to attain particular persons of treason or felony ought to be made in any case or at any time hereafter.

ART. 17. That every freeman, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

ART. 18. That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

ART. 19. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

ART. 20. That no man ought to be compelled to give evidence against himself in a court of common law, or in any other court, but in such cases as have been usually practised in this State, or may hereafter be directed by the legislature.

ART. 21. That no freeman ought to be taken or imprisoned, or seized 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: *Provided*, That nothing in this article shall be so construed as to prevent the legislature from passing all such laws for the government, regulation, and disposition of the free colored population of this State as they may deem necessary.

ART. 22. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted by the courts of law.

ART. 23. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

ART. 24. That no conviction shall work corruption of blood or forfeiture of estate.

ART. 25. That a well-regulated militia is the proper and natural defence of a free government.

ART. 26. That standing armies are dangerous to liberty, and ought not to be raised or kept up without consent of the legislature.

ART. 27. That in all cases and at all times the military ought to be under strict subordination to, and control of, the civil power.

ART. 28. That no soldier ought to be quartered in any house in time of peace without the consent of the owner, and in time of war in such manner only as the legislature shall direct.

ART. 29. That no person, except regular soldiers, mariners, and marines, in the service of this State, or militia when in actual service, ought in any case to be subject to or punishable by martial law.

ART. 30. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the judges shall not be removed, except for misbehavior, on conviction in a court of law, or by the governor, upon the address of the general assembly: *Provided*, That two-thirds of all the members of each house concur in such address. No such judge shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the constitution or laws of this State, or of the United States, or any of them, or receive fees or perquisites of any kind for the discharge of his official duties.

ART. 31. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom.

ART. 32. That no person ought to hold at the same time more than one office of profit, created by the constitution or laws of this State; nor ought any person in public trust to receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this State.

ART. 33. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless under color of religion any man shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of worship or any ministry; nor shall any person be deemed incompetent as a witness or juror who believes in the existence of a God, and that under his dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

ART. 34. That no other test or qualification ought to be required, on admission to any office of trust or profit, than such oath of office as may be prescribed by this constitution, or by the laws of the State, and a declaration of belief in the Christian religion; and if the party shall profess to be a Jew, the declaration shall be of his belief in a future state of rewards and punishments.

ART. 35. That every gift, sale, or devise of land, to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to or for the support, use, or benefit of, or in trust for any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit; and also every devise of goods or chattels, to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such; or any religious sect, order, or denomination, without the leave of the legislature, shall be void; except always any sale, gift, lease, or devise of any quantity of land, not exceeding five acres, for a church, meeting-house, or other house of worship, or parsonage, or for a burying-ground, which shall be improved, enjoyed, or used only for such purpose; or such sale, gift, lease, or devise shall be void.

ART. 36. That the manner of administering an oath or affirmation to any person ought to be such as those of the religious persuasion, profession, or denomination of which he is a member generally esteem the most effectual confirmation by the attestation of the Divine Being.

ART. 37. That the city of Annapolis ought to have all its rights, privileges, and benefits, agreeably to its charter and the acts of assembly confirming and regulating the same, subject to such alterations as have been or as may be made by the legislature.

ART. 38. That the liberty of the press ought to be inviolably preserved.

ART. 39. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

ART. 40. That no title of nobility or hereditary honors ought to be granted in this State.

ART. 41. That the legislature ought to encourage the diffusion of knowledge and virtue, the promotion of literature, the arts, sciences, agriculture, commerce, and manufactures, and the general melioration of the condition of the people.

ART. 42. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ART. 43. That this constitution shall not be altered, changed, or abolished, except in the manner therein prescribed and directed.

THE CONSTITUTION

ARTICLE I

ELECTIVE FRANCHISE

SECTION 1. Every free white male person, of twenty-one years of age or upwards, who shall have been one year next preceding the election a resident of the State, and for six months a resident of the city of Baltimore, or of any county in which he may offer to vote, and being at the time of the election a citizen of the United States, shall be entitled to vote in the ward or election district in which he resides, in all elections hereafter to be held; and at all such elections the vote shall be taken by ballot. And in case any county or city shall be so

divided as to form portions of different electoral districts for the election of Congressmen, senator, delegate, or other officer or officers, then to entitle a person to vote for such officer, he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for six months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. That if any person shall give, or offer to give, directly or indirectly, any bribe, present, or reward, or any promise, or any security for the payment or delivery of money or any other thing to induce any voter to refrain from casting his vote, or forcibly to prevent him in any way from voting, or to obtain or procure a vote for any candidate or person proposed or voted for as elector of President and Vice-President of the United States, or Representative in Congress, or for any office of profit or trust created by the constitution or laws of this State, or by the ordinances or authority of the mayor and city council of Baltimore, the person giving or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be so, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

SEC. 3. It shall be the duty of the general assembly of Maryland to pass laws to punish with fine and imprisonment any person who shall remove into any election district or ward of the city of Baltimore, not for the purpose of acquiring a *bona-fide* residence therein, but for the purpose of voting therein at an approaching election, or who shall vote in any election district or ward in which he does not reside, (except in the case provided for in the first article of the constitution,) or shall, at the same election, vote in more than one election district or ward, or shall vote or offer to vote in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

SEC. 4. Every person elected or appointed to any office of profit or trust under the constitution or laws made pursuant thereto, before he shall enter upon the duties of such office shall take and subscribe the following oath or affirmation: "I, A. B., do swear [or affirm, as the case may be] that I will support the Constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____ according to the constitution and laws of this State, and that since the adoption of the present constitution I have not in any manner violated the provisions thereof in relation to the bribery of voters or preventing legal or procuring illegal votes to be given; and [if a governor, senator, member of the house of delegates, or judge] that I will not directly or indirectly receive the profits or any part of the profits of any other office during the time of my acting as _____." And if any person, elected or appointed to office as aforesaid, shall

refuse or neglect to take the said oath or affirmation, he shall be considered as having refused to accept the said office, and a new election or appointment shall be made as in case of refusal or resignation, and any person swearing or affirming falsely in the premises shall, on conviction thereof in a court of law, incur the penalties for wilful and corrupt perjury, and be thereafter incapable of voting at any election, and also incapable of holding any office of profit or trust in this State.

SEC. 5. That no person above the age of twenty-one years, convicted of larceny or other infamous crime, unless he shall be pardoned by the executive, shall ever thereafter be entitled to vote at any election in this State, and no person under guardianship as a lunatic, or as a person *non compos mentis*, shall be entitled to vote.

ARTICLE II

EXECUTIVE DEPARTMENT

SECTION 1. The executive power of the State shall be vested in a governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified.

SEC. 2. The first election for governor under this constitution shall be held on the first Wednesday of November, in the year eighteen hundred and fifty-three, and on the same day and month in every fourth year thereafter, at the places of voting for delegates to the general assembly, and every person qualified to vote for delegates shall be qualified and entitled to vote for governor; the election to be held in the same manner as the election of delegates, and the returns thereof, under seal, to be addressed to the speaker of the house of delegates, and inclosed and transmitted to the secretary of state, and delivered to the said speaker at the commencement of the session of the legislature next ensuing said election.

SEC. 3. The speaker of the house of delegates shall then open the said returns in the presence of both houses, and the person having the highest number of votes, and being constitutionally eligible, shall be the governor, and shall qualify in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

SEC. 4. If two or more persons shall have the highest and an equal number of votes, one of them shall be chosen governor by the senate and house of delegates; and all questions in relation to the eligibility of governor, and to the returns of said election, and to the number and legality of votes therein given, shall be determined by the house of delegates. And if the person or persons having the highest number of votes be ineligible, the governor shall be chosen by the senate and house of delegates. Every election of governor, by the legislature, shall be determined by a joint majority of the senate and house of delegates, and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the votes should again be equal, then the election of governor shall be determined by lot between

those who shall have the highest and an equal number on the first vote.

SEC. 5. The State shall be divided into three districts, Saint Mary's, Charles, Calvert, Prince George's, Anne Arundel, Montgomery, and Howard Counties, and the city of Baltimore, to be the first; the eight counties of the eastern shore to be the second; and Baltimore, Harford, Frederick, Washington, Alleghany, and Carroll Counties to be the third. The governor, elected from the third district in October last, shall continue in office during the term for which he was elected. The governor shall be taken from the first district, at the first election of governor under this constitution; from the second district at the second election, and from the third district at the third election, and in like manner, afterwards, from each district, in regular succession.

SEC. 6. A person to be eligible to the office of governor must have attained the age of thirty years, and been for five years a citizen of the United States, and for five years next preceding his election a resident of the State, and for three years a resident of the district from which he was elected.

SEC. 7. In case of the death or resignation of the governor, or of his removal from the State, the general assembly, if in session, or if not, at their next session, shall elect some other qualified resident of the same district to be the governor for the residue of the term for which the said governor had been elected.

SEC. 8. In case of any vacancy in the office of governor during the recess of the legislature, the president of the senate shall discharge the duties of said office till a governor is elected as herein provided for; and in case of the death or resignation of said president, or of his removal from the State, or of his refusal to serve, then the duties of said office shall, in like manner, and for the same interval, devolve upon the speaker of the house of delegates, and the legislature may provide by law for the case of impeachment or inability of the governor, and declare what person shall perform the executive duties during such impeachment or inability; and for any vacancy in said office, not herein provided for, provision may be made by law, and if such vacancy should occur without such provision being made, the legislature shall be convened by the secretary of state for the purpose of filling said vacancy.

SEC. 9. The governor shall be commander-in-chief of the land and naval forces of the State, and may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the laws; but shall not take the command in person without the consent of the legislature.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. He shall nominate and, by and with the advice and consent of the senate, appoint all civil and military officers of the State, whose appointment or election is not otherwise herein provided for, unless a different mode of appointment be prescribed by the law creating the office.

SEC. 12. In case of any vacancy during the recess of the senate, in any office which the governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force till the end of the next session of the legislature, or till some other person is appointed to the same office, whichever shall first occur, and

the nomination of the person thus appointed during the recess, or of some other person in his place, shall be made to the senate within thirty days after the next meeting of the legislature.

SEC. 13. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate; or be appointed to the same office during the recess of the legislature.

SEC. 14. All civil officers appointed by the governor and senate shall be nominated to the senate within fifty days from the commencement of each regular session of the legislature; and their term of office shall commence on the first Monday of May next ensuing their appointment, and continue for two years, (unless sooner removed from office,) and until their successors, respectively, qualify according to law.

SEC. 15. The governor may suspend or arrest any military officer of the State for disobedience of orders, or other military offence, and may remove him in pursuance of the sentence of a court-martial; and may remove, for incompetency or misconduct, all civil officers who receive appointments from the executive for a term not exceeding two years.

SEC. 16. The governor may convene the legislature, or the senate alone, on extraordinary occasions; and whenever, from the presence of an enemy or from any other cause, the seat of government shall become an unsafe place for the meeting of the legislature, he may direct their sessions to be held at some other convenient place.

SEC. 17. It shall be the duty of the governor semi-annually, and oftener if he deem it expedient, to examine the bank-book, account-books, and official proceedings of the treasurer and comptroller of the State.

SEC. 18. He shall, from time to time, inform the legislature of the condition of the State, and recommend to their consideration such measures as he may judge necessary and expedient.

SEC. 19. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases in which he is prohibited by other articles of this constitution, and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due to the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice, in one or more newspapers, of the application made for it, and of the day on or after which his decision will be given; and in every case in which he exercises this power, he shall report to either branch of the legislature, whenever required, the petitions, recommendations, and reasons which influence his decision.

SEC. 20. The governor shall reside at the seat of government, and shall receive for his services an annual salary of thirty-six hundred dollars.

SEC. 21. When the public interest requires it, he shall have power to employ counsel, who shall be entitled to such compensation as the legislature may allow in each case after the services of such counsel shall have been performed.

SEC. 22. A secretary of state shall be appointed by the governor, by and with the advice and consent of the senate, who shall continue in office, unless sooner removed by the governor, till the end of the

official term of the governor from whom he receives his appointment, and shall receive an annual salary of one thousand dollars.

SEC. 23. He shall carefully keep and preserve a record of all official acts and proceedings, (which may, at all times, be inspected by a committee of either branch of the legislature,) and shall perform such other duties as may be prescribed by law, or as may properly belong to his office.

ARTICLE III

LEGISLATIVE DEPARTMENT

SECTION 1. The legislature shall consist of two distinct branches, a senate and a house of delegates, which shall be styled "The general assembly of Maryland."

SEC. 2. Every county of the State, and the city of Baltimore, shall be entitled to elect one senator, who shall be elected by the qualified voters of the counties and city of Baltimore, respectively, and who shall serve for four years from the day of their election.

SEC. 3. The legislature at its first session after the returns of the national census of eighteen hundred and sixty are published, and in like manner after each subsequent census, shall apportion the members of the house of delegates among the several counties of the State, according to the population of each, and shall always allow to the city of Baltimore four more delegates than are allowed to the most populous county, but no county shall be entitled to less than two members, nor shall the whole number of delegates ever exceed eighty, or be less than sixty-five; and, until the apportionment is made under the census of eighteen hundred and sixty, Saint Mary's County shall be entitled to two delegates; Kent, two; Anne Arundel, three; Calvert, two; Charles, two; Baltimore County, six; Talbot, two; Somerset, four; Dorchester, three; Cecil, three; Prince George's, three; Queen Anne's, two; Worcester, three; Frederick, six; Harford, three; Caroline, two; Baltimore City, ten; Washington, five; Montgomery, two; Alleghany, four; Carroll, three, and Howard, two.

SEC. 4. The members of the house of delegates shall be elected by the qualified voters of the counties and city of Baltimore respectively, to serve for two years from the day of their election.

SEC. 5. The first election for delegates shall take place on the first Wednesday of November, eighteen hundred and fifty-one; and the elections for delegates, and for one-half of the senators, as nearly as practicable, shall be held on the same day in every second year thereafter, but an election for senators shall be held in the year eighteen hundred and fifty-one in Howard County, and all those counties in which senators were elected in the year eighteen hundred and forty-six.

SEC. 6. Immediately after the senate shall have convened after the first election under this constitution, the senators shall be divided, by lot, into two classes, as nearly equal in number as may be; the senators of the first class shall go out of office at the expiration of two years, and senators shall be elected on the first Wednesday of November, eighteen hundred and fifty-three, for the term of four years, to supply their places; so that after the first election, one-half of the

senators may be chosen every second year: *Provided*, That in no case shall any senator be placed in a class which shall entitle him to serve for a longer term than that for which he was elected. In case the number of senators be hereafter increased, such classification of the additional senators shall be made as to preserve as nearly as may be an equal number in each class.

SEC. 7. The general assembly shall meet on the first Wednesday of January, eighteen hundred and fifty-two, on the same day in the year eighteen hundred and fifty-three, and on the same day in the year eighteen hundred and fifty-four, and on the same day in every second year thereafter, and at no other time unless convened by the proclamation of the governor.

SEC. 8. The general assembly may continue their first two sessions after the adoption of this constitution as long as, in the opinion of the two houses, the public interests may require it, but all subsequent regular sessions of the general assembly shall be closed on the tenth day of March next ensuing the time of their commencement, unless the same shall be closed at an earlier day by the agreement of the two houses.

SEC. 9. No person shall be eligible as a senator or delegate who, at the time of his election, is not a citizen of the United States, and who has not resided at least three years next preceding the day of his election in this State, and the last year thereof in the county or city which he may be chosen to represent, if such county or city shall have been so long established, and if not, then in the county from which, in whole or in part, the same may have been formed; nor shall any person be eligible as a senator unless he shall have attained the age of twenty-five years, nor as a delegate unless he shall have attained the age of twenty-one years at the time of his election.

SEC. 10. No member of Congress, or person holding any civil or military office under the United States, shall be eligible as a senator or delegate; and if any person shall, after his election as a senator or delegate, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 11. No minister or preacher of the Gospel, of any denomination, and no person holding any civil office of profit or trust under this State, except justices of the peace, shall be eligible as senator or delegate.

SEC. 12. Each house shall be judge of the qualifications and elections of its members, subject to the laws of the State; appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behavior, and, with the consent of two-thirds, expel a member; but no member shall be expelled a second time for the same offence.

SEC. 13. A majority of each house shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 14. The doors of each house and of committees of the whole shall be open, except when the business is such as ought to be kept secret.

SEC. 15. Each house shall keep a journal of its proceedings, and cause the same to be published. The yeas and nays of members on

any question shall, at the call of any five of them, in the house of delegates, or one in the senate, be entered on the journal.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which the house shall be sitting, without the concurrent vote of two-thirds of the members present.

SEC. 17. The style of all laws of this State shall be, "*Be it enacted by the general assembly of Maryland,*" and all laws shall be passed by original bill, and every law enacted by the legislature shall embrace but one subject, and that shall be described in the title, and no law or section of law shall be revived, amended, or repealed by reference to its title or section only, and it shall be the duty of the legislature, at the first session after the adoption of this constitution, to appoint two commissioners, learned in the law, to revise and codify the laws of this State; and the said commissioners shall report the said code, so formed, to the legislature, within a time to be by it determined, for its approval, amendment, or rejection; and, if adopted after the revision and codification of the said laws, it shall be the duty of the legislature, in amending any article or section thereof, to enact the same as the said article or section would read when amended. And whenever the legislature shall enact any public general law, not amendatory of any section or article in the said code, it shall be the duty of the legislature to enact the same in articles and sections, in the same manner as the said code may be arranged, and to provide for the publication of all additions and alterations which may be made to the said code; and it shall also be the duty of the legislature to appoint one or more commissioners learned in the law, whose duty it shall be to revise, simplify, and abridge the rules of practice, pleadings, forms of conveyancing, and proceedings of the courts of record in this State.

SEC. 18. Any bill may originate in either house of the general assembly, and be altered, amended, or rejected by the other, but no bill shall originate in either house during the last three days of the session, or become a law, until it be read on three different days of the session in each house, unless three-fourths of the members of the house where such bill is pending shall so determine.

SEC. 19. No bill shall become a law unless it be passed in each house by a majority of the whole number of members elected, and on its final passage the ayes and noes be recorded.

SEC. 20. No money shall be drawn from the treasury of the State, except in accordance with an appropriation made by law, and every such law shall distinctly specify the sum appropriated, and the object to which it shall be applied: *Provided*, That nothing herein contained shall prevent the legislature from placing a contingent fund at the disposal of the executive, who shall report to the legislature at each session the amount expended and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws after each regular session of the general assembly.

SEC. 21. No divorce shall be granted by the general assembly.

SEC. 22. No debts shall hereafter be contracted by the legislature, unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within

fifteen years from the time of contracting the same, and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and the interest thereon shall be fully discharged, and the amount of debts so contracted and remaining unpaid shall never exceed one hundred thousand dollars. The credit of the State shall not, in any manner, be given or loaned to or in aid of any individual, association, or corporation, nor shall the general assembly have the power, in any mode, to involve the State in the construction of works of internal improvement, or in any enterprise which shall involve the faith or credit of the State, or make any appropriations therefor. And they shall not use or appropriate the proceeds of the internal-improvement companies, or of the State tax now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose, until the interest and debt are fully paid, or the sinking fund shall be equal to the amount of the outstanding debt; but the legislature may, without laying a tax, borrow an amount, never to exceed fifty thousand dollars, to meet temporary deficiencies in the treasury, and may contract debts to any amount that may be necessary for the defence of the State.

SEC. 23. No extra compensation shall be granted or allowed by the general assembly to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract entered into. Nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

SEC. 24. No senator or delegate, after qualifying as such, shall, during the term for which he was elected, be eligible to any office which shall have been created, or the salary or profits of which shall have been increased, during such term, or shall, during said term, hold any office or receive the salary or profits of any office, under the appointment of the executive or legislature.

SEC. 25. Each house may punish by imprisonment, during the session of the general assembly, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings or any of its officers in the execution of their duties: *Provided*, Such imprisonment shall not, at any one time, exceed ten days.

SEC. 26. The members of each house shall, in all cases, except treason, felony, or other criminal offence, be privileged from arrest during their attendance at the session of the general assembly, and in going to and returning from the same, allowing one day for every thirty miles such member may reside from the place at which the general assembly is convened.

SEC. 27. No senator or delegate shall be liable, in any civil action or criminal prosecution whatever, for words spoken in debate.

SEC. 28. The house of delegates may inquire, on the oath of witnesses, into all complaints, grievances, and offences, as the grand inquest of the State, and may commit any person for any crime to the public jail, there to remain until discharged by due course of law; they may examine and pass all accounts of the State relating either in the collection or expenditure of the revenue, and appoint auditors to state and adjust the same; they may call for all public or official papers and records, and send for persons whom they may judge necessary in the course of their inquiries concerning affairs relating

to the public interest, and may direct all office bonds which shall be made payable to the State to be sued for any breach of duty.

SEC. 29. In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or city for which he shall have been elected, of any person who shall have been chosen as a delegate or senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the speaker of the house of delegates or president of the senate, as the case may be, for the election of another person in his place, of which election not less than ten days' notice shall be given, exclusive of the day of the publication of the notice and of the day of election; and in case of such resignation or refusal to act being communicated in writing, to the governor, by the person making it, or if such death occur during the legislative recess and more than ten days before its termination, it shall be the duty of the governor to issue a warrant of election to supply the vacancy thus created in the same manner that the said speaker or president might have done during the session of the legislature: *Provided, however,* That unless a meeting of the general assembly may intervene, the election thus ordered to fill such vacancy shall be held on the day of the ensuing election for delegates and senators.

SEC. 30. The senators and delegates shall receive a per diem of four dollars, and such mileage as may be allowed by law, and the presiding officer of each house shall be allowed an addition of one dollar per day. No book or other printed matter not appertaining to the business of the session shall be purchased or subscribed for, for the use of the members, or be distributed among them at the public expense.

SEC. 31. No law passed by the general assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein.

SEC. 32. No law shall be passed creating the office of attorney-general.

SEC. 33. The general assembly shall have full power to exclude from the privilege of voting at elections, or of holding any civil or military office in this State, any person who may thereafter be convicted of perjury, bribery, or other felony, unless such person shall have been pardoned by the executive.

SEC. 34. Every bill, when passed by the general assembly, and sealed with the great seal, shall be presented to the governor, who shall sign the same in the presence of the presiding officers and chief clerks of the senate and house of delegates. Every law shall be recorded in the office of the court of appeals, and in due time be printed, published, and certified under the great seal to the several courts in the same manner as has been heretofore usual in this State.

SEC. 35. No person who may hereafter be a collector, receiver, or holder of public moneys shall be eligible as senator or delegate, or to any office of profit or trust under this State, until he shall have accounted for and paid into the treasury all sums on the books thereof, charged to and due by him.

SEC. 36. Any citizen of this State who shall, after the adoption of this constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as second, or knowingly aid or assist in any manner those thus offend-

ing, shall ever thereafter be incapable of holding any office of trust or profit under this State.

SEC. 37. No lottery-grant shall ever hereafter be authorized by the legislature.

SEC. 38. The general assembly shall pass laws necessary to protect the property of the wife from the debts of the husband during her life, and for securing the same to her issue after her death.

SEC. 39. Laws shall be passed by the legislature to protect from execution a reasonable amount of the property of a debtor, not exceeding in value the sum of five hundred dollars.

SEC. 40. The legislature shall, at its first session after the adoption of this constitution, adopt some simple and uniform system of charges in the offices of clerks of courts and registers of wills in the counties of this State and the city of Baltimore, and for the collection thereof: *Provided*, The amount of compensation to any of said officers shall not exceed the sum of twenty-five hundred dollars a year, over and above office expenses, and compensation to assistants: *And provided further*, That such compensation of clerks, registers, assistants, and office expenses shall always be paid out of the fees or receipts of the offices respectively.

SEC. 41. The house of delegates shall have the sole power of impeachment in all cases, but a majority of all the members must concur in an impeachment; all impeachments shall be tried by the senate, and when sitting for that purpose they shall be on oath or affirmation to do justice according to the law and evidence, but no person shall be convicted without the concurrence of two-thirds of all the senators.

SEC. 42. That it shall be the duty of the legislature, so soon as the public debt shall have been fully paid off, to cause to be transferred to the several counties and the city of Baltimore stock in the internal-improvement companies, equal to the amount respectively paid by each toward the erection and completion of said works, at the then market-value of said stock.

SEC. 43. The legislature shall not pass any law abolishing the relation of master or slave, as it now exists in this State.

SEC. 44. No person shall be imprisoned for debt.

SEC. 45. The legislature hereafter shall grant no charter for banking purposes or renew any banking corporation now in existence, except upon the condition that the stockholders and directors shall be liable to the amount of their respective share or shares of stock in such banking institution for all its debts and liabilities upon note, bill, or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and if any director or other officer shall be convicted upon indictment of directly or indirectly violating this article, he shall be punished by fine or imprisonment at the discretion of the court. All banks shall be open to inspection of their books, papers, and accounts, under such regulations as may be prescribed by law.

SEC. 46. The legislature shall enact no law authorizing private property to be taken for public use, without just compensation, as agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

SEC. 47. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in

cases where, in the judgment of the legislature, the object of the corporation cannot be attained under general laws. All laws and special acts, pursuant to this section, may be altered from time to time, or repealed: *Provided*, Nothing herein contained shall be construed to alter, change, or amend in any manner the article in relation to banks.

SEC. 48. The legislature shall make provision for all cases of contested elections of any of the officers not herein provided for.

SEC. 49. That the rate of interest in this State shall not exceed 6 per cent. per annum, and no higher rate shall be taken or demanded, and the legislature shall provide, by law, all necessary forfeitures and penalties against usury.

ARTICLE IV

JUDICIARY DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in a court of appeals, in circuit courts, in such courts for the city of Baltimore as may be hereinafter prescribed, and in justices of the peace.

SEC. 2. The court of appeals shall have appellate jurisdiction only, which shall be coextensive with the limits of the State. It shall consist of a chief justice and three associate justices, any three of whom shall form a quorum, whose judgment shall be final and conclusive in all cases of appeals; and who shall have the jurisdiction which the present court of appeals of this State now has, and such other appellate jurisdiction as hereafter may be provided for by law. And in every case decided, an opinion, in writing, shall be filed, and provision shall be made by law for publishing reports of cases argued and determined in the said court. The governor, for the time being, by and with the advice and consent of the senate, shall designate the chief justice, and the court of appeals shall hold its sessions at the city of Annapolis, on the first Monday of June and the first Monday of December, in each and every year.

SEC. 3. The court of appeals shall appoint its own clerk, who shall hold his office for six years, and may be reappointed at the end thereof; he shall be subject to removal by the said court for incompetency, neglect of duty, misdemeanor in office, and for such other causes as may be prescribed by law.

SEC. 4. The State shall be divided into four judicial districts: Alleghany, Washington, Frederick, Carroll, Baltimore, and Harford Counties shall compose the first; Montgomery, Howard, Anne Arundel, Calvert, Saint Mary's, Charles, and Prince George's the second; Baltimore City the third; and Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset, and Worcester shall compose the fourth district. And one person from among those learned in the law, having been admitted to practise in this State, and who shall have been a citizen of this State at least five years, and above the age of thirty years at the time of his election, and a resident of the judicial district, shall be elected from each of said districts by the legal and qualified voters therein, as a judge of the said court of appeals, who shall hold his office for the term of ten years from the time of his election, or until he shall have attained the age of seventy years, whichever may first happen, and be reëligible thereto until he shall have attained the age of seventy years, and not after, subject to removal for incompetency,

wilful neglect of duty, or misbehavior in office, on conviction in a court of law, or by the governor upon the address of the general assembly, two-thirds of the members of each house concurring in such address; and the salary of each of the judges of the court of appeals shall be two thousand five hundred dollars annually, and shall not be increased or diminished during their continuance in office; and no fees or perquisites of any kind shall be allowed by law to any of the said judges.

SEC. 5. No judge of the court of appeals shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or when he shall have been of counsel in said case; when the court of appeals, or any of its members, shall be thus disqualified to hear and determine any case or cases in said court, so that by reason thereof no judgment can be rendered in said court, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of said case or cases.

SEC. 6. All judges of the court of appeals, of the circuit courts, and of the courts for the city of Baltimore, shall, by virtue of their offices, be conservators of the peace throughout the State.

SEC. 7. All public commissions and grants shall run thus: "The State of Maryland," &c., and shall be signed by the governor, with the seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed, and signed as usual; and all indictments shall conclude, "against the peace, government, and dignity of the State."

SEC. 8. The State shall be divided into eight judicial circuits, in manner and form following, to wit: Saint Mary's, Charles, and Prince George's Counties shall be the first; Anne Arundel, Howard, Calvert, and Montgomery Counties shall be the second; Frederick and Carroll Counties shall be the third; Washington and Alleghany Counties shall be the fourth; Baltimore City shall be the fifth; Baltimore, Harford, and Cecil Counties shall be the sixth; Kent, Queen Anne's, Talbot, and Caroline Counties shall be the seventh; and Dorchester, Somerset, and Worcester Counties shall be the eighth; and there shall be elected, as hereinafter directed, for each of the said judicial circuits, except the fifth, one person from among those learned in the law, having been admitted to practise in this State, and who shall have been a citizen of this State at least five years, and above the age of thirty years at the time of his election, and a resident of the judicial circuit, to be judge thereof; the said judges shall be styled circuit judges, and shall respectively hold a term of their courts at least twice in each year, or oftener if required by law, in each county composing their respective circuits; and the said courts shall be called circuit courts for the county in which they may be held, and shall have and exercise in the several counties of this State all the power, authority, and jurisdiction which the county courts of this State now have and exercise, or which may hereafter be prescribed by law, and the said judges in their respective circuits shall have and exercise all the power, authority, and jurisdiction of the present court of chancery of Maryland: *Provided, nevertheless,* That Baltimore County court may hold its sittings within the limits of the city of Baltimore until provision shall be made by law for the location of a county-seat within the limits of the said county proper.

and the erection of a court-house and all other appropriate buildings for the convenient administration of justice in said court.

SEC. 9. The judges of the several judicial circuits shall be citizens of the United States, and shall have resided five years in this State, and two years in the judicial circuit for which they may be respectively elected, next before the time of their election, and shall reside therein while they continue to act as judges; they shall be taken from among those who, having the other qualifications herein prescribed, are most distinguished for integrity, wisdom, and sound legal knowledge, and shall be elected by the qualified voters of the said circuits, and shall hold their offices for the term of ten years, removable for misbehavior, on conviction in a court of law, or by the governor, upon the address of the general assembly, provided that two-thirds of the members of each house shall concur in such address; and the said judges shall each receive a salary of two thousand dollars a year, and the same shall not be increased or diminished during the time of their continuance in office; and no judge of any court in this State shall receive any perquisite, fee, commission, or reward, in addition thereto, for the performance of any judicial duty.

SEC. 10. There shall be established for the city of Baltimore one court of law, to be styled "the court of common pleas," which shall have civil jurisdiction in all suits where the debt or damage claimed shall be over one hundred dollars, and shall not exceed five hundred dollars; and shall also have jurisdiction in all cases of appeal from the judgment of justices of the peace in the said city, and shall have jurisdiction in all applications for the benefit of the insolvent laws of this State, and the supervision and control of the trustees thereof.

SEC. 11. There shall also be established for the city of Baltimore another court of law, to be styled the superior court of Baltimore City, which shall have jurisdiction over all suits where the debt or damage claimed shall exceed the sum of five hundred dollars; and in case any plaintiff or plaintiffs shall recover less than the sum or value of five hundred dollars, he or they shall be allowed or adjudged to pay costs in the discretion of the court. The said court shall also have jurisdiction as a court of equity within the limits of the said city, and in all other civil cases which have not been heretofore assigned to the court of common pleas.

SEC. 12. Each of the said two courts shall consist of one judge, who shall be elected by the legal and qualified voters of the said city, and shall hold his office for the term of ten years, subject to the provisions of this constitution with regard to the election and qualification of judges and their removal from office, and the salary of each of the said judges shall be twenty-five hundred dollars a year; and the legislature shall, whenever it may think the same proper and expedient, provide, by law, another court for the city of Baltimore, to consist of one judge, to be elected by the qualified voters of the said city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, and receive the same compensation as the judge of the court of common pleas of the said city, and the said court shall have such jurisdiction and powers as may be prescribed by law.

SEC. 13. There shall also be a criminal court for the city of Baltimore, to be styled "the criminal court of Baltimore," which shall consist of one judge, who shall also be elected by the legal and qualified

voters of the said city, and who shall have and exercise all the jurisdiction now exercised by Baltimore City court, and the said judge shall receive a salary of two thousand dollars a year, and shall be subject to the provisions of this constitution with regard to the election and qualifications of judges, term of office, and removal therefrom.

SEC. 14. There shall be in each county a clerk of the circuit court, who shall be elected by the qualified voters of each county, and the person receiving the greatest number of votes shall be declared and returned duly elected clerk of said circuit court for the said county, and shall hold his office for the term of six years from the time of his election, and until a new election is held; shall be reeligible thereto, and subject to removal for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. There shall also be a clerk of the court of common pleas in Baltimore City, and a clerk of the superior court of Baltimore City, and there shall also be a clerk of the criminal court of Baltimore City, and each of said clerks shall be elected as aforesaid by the qualified voters of the city of Baltimore, and shall hold his office for six years from the time of his election, and until a new election is held, and be reeligible thereto, subject, in like manner, to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a court of law. In case of a vacancy in the office of a clerk, the judge or judges of the court of which he was clerk shall have the power to appoint a clerk until the general election of delegates held next thereafter, when a clerk shall be elected to fill such vacancy.

SEC. 15. The clerk of the court of common pleas for Baltimore City shall have authority to issue within the said city all marriage and other licenses required by law, subject to such provisions as the legislature shall hereafter prescribe; and the clerk of the superior court for said city shall have the custody of all deeds, conveyances, and other papers now remaining in the office of the clerk of Baltimore County court, and shall hereafter receive and record all deeds, conveyances, and other papers which are required by law to be recorded in said city. He shall also have the custody of all other papers connected with the proceedings on the law or equity side of Baltimore County court, and of the dockets thereof, so far as the same have relation to Baltimore City.

SEC. 16. That the clerk of the court of appeals, and the clerks of the circuit courts in the several counties, shall respectively perform all the duties and be entitled to the fees which appertain to the offices of the clerks of court of appeals for the eastern and western shores and of the clerks of county courts, and the clerks of the court of common pleas, the superior court, and the criminal court for Baltimore City shall perform all the duties appertaining to their respective offices, and heretofore vested in the clerks of Baltimore County court and Baltimore City court respectively, and be entitled to all the fees now allowed by law; and all laws relating to the clerks of court of appeal, clerks of the several county courts, and Baltimore City court shall be applicable to the clerks respectively of the clerk of court of appeals, the circuit courts, the court of common pleas, the superior court, and the criminal court of Baltimore City, until otherwise provided by law; and the said clerks, when duly

elected and qualified according to law, shall have the charge and custody of the records and other papers belonging to their respective offices.

SEC. 17. The qualified voters of the city of Baltimore, and of the several counties of the State, shall, on the first Wednesday of November, eighteen hundred and fifty-one, and on the same day of the same month in every fourth year forever thereafter, elect three men to be judges of the orphans' court of said city and counties respectively, who shall be citizens of the State of Maryland and citizens of the city or county for which they may be severally elected at the time of their election. They shall have all the powers now vested in the orphans' courts of this State, subject to such changes therein as the legislature may prescribe, and each of said judges shall be paid at a per diem rate for the time they are in session, to be fixed by the legislature and paid by the said counties and city respectively.

SEC. 18. There shall be a register of wills in each county of the State and in the city of Baltimore, to be elected by the legal and qualified voters of said counties and city respectively, who shall hold his office for six years from the time of his election, and until a new election shall take place, and be reëligible thereto, subject to be removed for wilful neglect of duty or misdemeanor in office, in the same manner that the clerks of the county courts are removable. In the event of any vacancy in the office of register of wills, said vacancy shall be filled by the judges of the orphans' court until the general election next thereafter for delegates to the general assembly, when a register shall be elected to fill such vacancy.

SEC. 19. The legislature at its first session after the adoption of this constitution shall fix the number of justices of the peace and constables for each ward of the city of Baltimore, and for each election district in the several counties, who shall be elected by the legal and qualified voters thereof respectively, at the next general election for delegates thereafter, and shall hold their offices for two years from the time of their election, and until their successors in office are elected and qualified; and the legislature may, from time to time, increase or diminish the number of justices of the peace and constables to be elected in the several wards and election districts as the wants and interests of the people may require. They shall be, by virtue of their offices, conservators of the peace in the said counties and city respectively, and shall have such duties and compensation as now exist or may be provided for by law. In the event of a vacancy in the office of a justice of the peace, the governor shall appoint a person to serve as justice of the peace, until the next regular election of said officers, and in case of a vacancy in the office of constable, the county commissioners of the county in which a vacancy may occur, or the mayor and city council of Baltimore, as the case may be, shall appoint a person to serve as constable until the next regular election thereafter for said officers. An appeal shall lie in all civil cases from the judgment of a justice of the peace to the circuit court, or to the court of common pleas of Baltimore City, as the case may be, and on all such appeals, either party shall be entitled to a trial by jury, according to the laws now existing, or which may be hereafter enacted. And the mayor and city council may provide, by ordinance, from time to time, for the creation and gov-

ernment of such temporary additional policy as they may deem necessary to preserve the public peace.

SEC. 20. There shall be elected in each county and in the city of Baltimore, every second year, two persons for the office of sheriff for each county, and two for the said city, the one of whom having the highest number of votes of the qualified voters of said county or city, or if both have an equal number, either of them, at the discretion of the governor, to be commissioned by the governor for the said office, and, having served for two years, such person shall be ineligible for the two years next succeeding; bond with security, to be taken every year, and no sheriff shall be qualified to act before the same be given. In case of death, refusal, disqualification, or removal out of the county, before the expiration of the said two years, the other person chosen as aforesaid shall be commissioned by the governor to execute the said office for the residue of the said two years, and said person giving bond with security as aforesaid. No person shall be eligible to the office of sheriff but a resident of such county or city respectively, who shall have been a citizen of this State at least five years preceding his election, and above the age of twenty-one years. The two candidates, properly qualified, having the highest number of legal ballots, shall be declared duly elected for the office of sheriff for such county or city, and returned to the governor, with a certificate of the number of ballots for each of them.

SEC. 21. Coroners, elisors, and notaries public shall be appointed for each county and the city of Baltimore, in the manner now prescribed by law, or in such other manner as the general assembly may hereafter direct.

SEC. 22. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of council in the case; and whenever any of the judges of the circuit courts, or of the courts for Baltimore City, shall be thus disqualified, or whenever, by reason of sickness, or any other cause, the said judges, or any of them, may be unable to sit in any cause, the parties may, by consent, appoint a proper person to try the said cause, or the judges, or any of them, shall do so when directed by law.

SEC. 23. The present chancellor and the register in chancery, and, in the event of any vacancy in their respective offices, their successors in office respectively, who are to be appointed as at present, by the governor and senate, shall continue in office, with the powers and compensation as at present established, until the expiration of two years after the adoption of this constitution by the people, and until the end of the session of the legislature next thereafter, after which the said offices of chancellor and register shall be abolished. The legislature shall, in the mean time, provide by law for the recording, safe-keeping, or other disposition of the records, decrees, and other proceedings of the court of chancery, and for the copying and attestation thereof, and for the custody and use of the great seal of the State, when required, after the expiration of the said two years, and for transmitting to the said counties, and to the city of Baltimore, all the cases and proceedings in said court then undisposed of and unfinished, in such manner and under such regulations as may be deemed necessary and proper: *Provided*, That no new business shall originate

in the said court, nor shall any cause be removed to the same from any other court, from and after the ratification of this constitution.

SEC. 24. The first election of judges, clerks, registers of wills, and all other officers, whose election by the people is provided for in this article of the constitution, except justices of the peace and constables, shall take place throughout the State on the first Wednesday of November next after the ratification of this constitution by the people.

SEC. 25. In case of the death, resignation, removal, or other disqualification of a judge of any of the courts of law, the governor, by and with the advice and consent of the senate, shall thereupon appoint a person, duly qualified, to fill said office until the next general election for delegates thereafter; at which time an election shall be held, as hereinbefore prescribed, for a judge, who shall hold the said office for ten years, according to the provisions of this constitution.

SEC. 26. In case of the death, resignation, removal, or other disqualification of the judge of an orphans' court, the vacancy shall be filled by the appointment of the governor, by and with the advice and consent of the senate.

SEC. 27. Whenever lands lie partly in one county and partly in another, or partly in a county and partly in the city of Baltimore, or whenever persons proper to be made defendants to proceedings in chancery reside some in one county and some in another, that court shall have jurisdiction in which proceedings shall have been first commenced, subject to such rules, regulations, and alterations as may be prescribed by law.

SEC. 28. In all suits or actions at law, issues from the orphans' court, or from any court sitting in equity, in petitions for freedom, and in all presentments and indictments now pending, or which may be pending at the time of the adoption of this constitution by the people, or which may be hereafter instituted in any of the courts of law of this State, having jurisdiction thereof, the judge or judges thereof, upon suggestion in writing, if made by the State's attorney, of the prosecutor for the State, or upon suggestion in writing, supported by affidavit, made by any of the parties thereto, or other proper evidence, that a fair and impartial trial cannot be had in the court where such suit or action at law, issues or petitions, or presentment and indictment is depending, shall order and direct the record of proceedings in such suit or action, issues or petitions, presentment or indictment, to be transmitted to the court of any adjoining county: *Provided*, That the removal in all civil causes be confined to an adjoining county within the judicial circuit, except as to the city of Baltimore, where the removal may be to an adjoining county for trial, which court shall hear and determine the same in like manner as if such suit or action, issues or petitions, presentment or indictment, had been originally instituted therein: *And provided also*, That such suggestion shall be made as aforesaid before or during the term in which the issue or issues may be joined in said suit or action, issues or petition, presentment or indictment, and that such further remedy in the premises may be provided by law as the legislature shall from time to time direct and enact.

SEC. 29. All elections of judges, and other officers provided for by this constitution, shall be certified, and the returns made by the clerks

of the respective counties to the governor, who shall issue commissions to the different persons for the offices to which they shall have been respectively elected; and in all such elections the person having the greatest number of votes shall be declared to be elected.

SEC. 30. If in any case of election for judges, clerks of the courts of law, and registers of wills the opposing candidates shall have an equal number of votes, it shall be the duty of the governor to order a new election; and in case of any contested election, the governor shall send the returns to the house of delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 31. Every person of good moral character, being a voter, shall be admitted to practise law in all the courts of law in this State in his own case.

ARTICLE V

THE STATE'S ATTORNEYS

SECTION 1. There shall be an attorney for the State in each county and the city of Baltimore, to be styled "the State's attorney," who shall be elected by the voters thereof, respectively, on the first Wednesday of November next, and on the same day every fourth year thereafter, and hold his office for four years from the first Monday of January next ensuing his election, and until his successor shall be elected and qualified, and shall be reëligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law.

SEC. 2. All elections for the State's attorney shall be certified to, and returns made thereof, by the clerks of the said counties and city to the judges thereof having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the persons returned, and in case of a tie between two or more persons to designate which of said persons shall qualify as State's attorney, and to administer the oaths of office to the persons elected.

SEC. 3. The State's attorney shall perform such duties and receive such fees and commissions as are now prescribed by law for the attorney-general and his deputies, and such other duties, fees, and commissions as may hereafter be prescribed by law, and if any State's attorney shall receive any other fee or reward than such as is, or may be allowed by law, he shall, on conviction thereof, be removed from office.

SEC. 4. No person shall be eligible to the office of State's attorney who has not been admitted to practise the law in this State, and who has not resided for at least one year in the county or city in which he may be elected.

SEC. 5. In case of vacancy in the office of State's attorney, or of his removal from the county or city in which he shall have been elected, or on his conviction as hereinbefore specified, the said vacancy shall be filled by the judge of the county or city, respectively, having criminal jurisdiction, in which said vacancy shall occur, until the election and qualification of his successor, at which election said vacancy shall be filled by the voters of the said county or city for the residue of the term thus made vacant.

SEC. 6. It shall be the duty of the clerk of the court of appeals and the commissioner of the land-office, respectively, whenever a case shall be brought into said court or office in which the State is a party, or has an interest, immediately to notify the governor thereof.

ARTICLE VI

TREASURY DEPARTMENT

SECTION 1. There shall be a treasury department, consisting of a comptroller, chosen by the qualified electors of the State at each election of members of the house of delegates, who shall receive an annual salary of two thousand five hundred dollars; and of a treasurer, to be appointed by the two houses of the legislature, at each session thereof, on joint ballot, who shall also receive an annual salary of two thousand five hundred dollars; and neither of the said officers shall be allowed or receive any fees, commissions, or perquisites of any kind, in addition to his salary, for the performance of any duty or service whatever. In case of a vacancy in either of the offices, by death or otherwise, the governor, by and with the advice and consent of the senate, shall fill such vacancy by appointment, to continue until another election by the people or a choice by the legislature, as the case may be, and the qualification of the successor. The comptroller and the treasurer shall keep their offices at the seat of government, and shall take such oath and enter into such bonds for the faithful discharge of their duties as the legislature shall prescribe.

SEC. 2. The comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue and for the support of the public credit; prepare and report estimates of the revenue and expenditure of the State; superintend and enforce the collection of all taxes and revenue; adjust, settle, and preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations prescribed by law, all warrants for moneys to be paid out of the treasury, in pursuance of appropriations by law; prescribe the formalities of the transfer of stock or other evidences of the State debt; and countersign the same, without which such evidences shall not be valid; he shall make full reports of all his proceedings, and of the state of the treasury department, within ten days after the commencement of each session of the legislature, and perform such other duties as shall be prescribed by law.

SEC. 3. The treasurer shall receive and keep the moneys of the State, and disburse the same upon warrants drawn by the comptroller, and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for moneys received by him shall be indorsed upon warrants signed by the comptroller, without which warrant, so signed, no acknowledgment of money received into the treasury shall be valid; and upon warrants issued by the comptroller he shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof, on account of the sinking-fund. Every bond, certificate, or other evidence of the debt of the State, shall be signed by the treasurer and countersigned by the comptroller, and no new certificate or other evidence intended to replace another shall

be issued until the old one shall be delivered to the treasurer, and authority executed in due form for the transfer of the same shall be filed in his office, and the transfer accordingly made on the book thereof, and the certificate or other evidence cancelled; but the legislature may make provision for the loss of certificates or other evidence of the debt.

SEC. 4. The treasurer shall render his accounts quarterly to the comptroller; and on the third day of each session of the legislature he shall submit to the senate and house of delegates fair and accurate copies of all accounts by him from time to time rendered and settled with the comptroller. He shall at all times submit to the comptroller the inspection of the moneys in his hands, and perform all other duties that shall be prescribed by law.

ARTICLE VII

SUNDRY OFFICERS

SECTION 1. At the first general election of delegates to the general assembly, after the adoption of this constitution, four commissioners shall be elected as hereinafter provided, who shall be styled "commissioners of public works," and who shall exercise a diligent and faithful supervision of all public works, in which the State may be interested as stockholder or creditor, and shall represent the State in all meetings of the stockholders, and shall appoint the directors in every railroad or canal company in which the State has the constitutional power to appoint directors. It shall also be the duty of the commissioners of public works to review, from time to time, the rate of tolls adopted by any company; use all legal powers which they may possess to obtain the establishment of rates of toll, which may prevent an injurious competition with each other, to the detriment of the interests of the State; and so to adjust them as to promote the agriculture of the State. It shall also be the duty of the said commissioners of public works to keep a journal of their proceedings; and at each regular session of the legislature to make to it a report, and to recommend such legislation as they shall deem necessary and requisite to promote or protect the interest of the State in the public works; and perform such other duties as may be prescribed by law. They shall each receive such salary as may be allowed by law, which shall not be increased or diminished during their continuance in office.

SEC. 2. For the election of the commissioners of public works, the State shall be divided into four districts. The counties of Alleghany, Washington, Frederick, Carroll, Baltimore, and Harford shall constitute the first district; the counties of Montgomery, Howard, Anne Arundel, Calvert, Saint Mary's, Charles, and Prince George's shall constitute the second district; Baltimore City shall constitute the third district; the counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset, and Worcester shall constitute the fourth district. One commissioner shall be elected in each district, who shall have been a resident thereof at least five years next preceding his election.

SEC. 3. The said commissioners shall be elected by the qualified voters of their districts respectively; the returns of their election shall be certified to the governor, who shall, by proclamation, declare the

result of the election. Two of the said commissioners first elected shall hold their office for four years, and the other two for two years from the first Monday of December next succeeding their election. And at the first meeting after their election, or as soon thereafter as practicable, they shall determine by lot who of their number shall hold their offices for four and two years respectively; and thereafter there shall be elected as aforesaid, at each general election of delegates, two commissioners for the term of four years, to be taken from the districts respectively wherein the commissioners resided at the time of their election, whose term of service has expired. And in case of a vacancy in the office of either of said commissioners, by death, resignation, or otherwise, the governor, by and with the advice and consent of the senate, shall appoint some qualified person from the same district, to serve until the next general election of delegates, when an election shall be held, as aforesaid, for a commissioner for the residue of said term. And in case of an equal division in the board of commissioners, on any subject committed to their charge, the treasurer of the State shall have power, and shall be called on to decide the same. And in the event of a tie vote for any two of the candidates for the office of commissioner in the same district, it shall be the duty of the governor to commission one or the other of the candidates having the equal number of votes. And if the governor doubt the legality or result of any election held for said commissioners, it shall be his duty to send the returns of such election to the house of delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 4. During the continuance of the lottery system in this State, there shall be elected by the legal and qualified voters of the State, at every general election for delegates to the general assembly, one commissioner of lotteries, who shall hold his office for two years, and till the qualification of his successor, and shall be reëligible. His whole compensation shall be paid out of the fund raised for the Maryland consolidated lottery-grants, and shall not exceed the amount of commissions received by one of the present lottery commissioners, out of said fund; and he shall give such bond, for the faithful performance of his duties, as is now given by the lottery commissioners. The term of the commissioner, who shall be elected at the general election for delegates next succeeding the adoption of this constitution, shall commence at the expiration of the commissions of the present lottery commissioners, and continue for two years, and till the qualification of his successor.

SEC. 5. From and after the first day of April, eighteen hundred and fifty-nine, no lottery scheme shall be drawn, for any purpose whatever, nor shall any lottery-ticket be sold in this State; and it shall be the duty of the several commissioners elected under this constitution to make such contract or contracts as will extinguish all existing lottery-grants before the said first day of April, eighteen hundred and fifty-nine, and also secure to the State a clear yearly revenue equal to the average amount derived by the State from the system for the last five years; but no such contract or contracts shall be valid until approved by the treasurer and comptroller.

SEC. 6. There shall be a commissioner of the land-office elected by the qualified voters of the State, at the first general election of delegates to the assembly after the ratification of this constitution, who

shall hold his office for the term of six years from the first day of January next after his election. The returns of said election shall be made to the governor, and in the event of a tie between any two or more candidates, the governor shall direct a new election to be held by writs to the several sheriffs, who shall hold said election after at least twenty days' notice, exclusive of the day of election. The said commissioner shall sit as judge of the land-office, and receive therefor the sum of two hundred dollars per annum, to be paid out of the State treasury. He shall also perform the duties of the register of the land-office, and be entitled to receive therefor the fees now chargeable in said office; and he shall also perform the duties of examiner-general, and be entitled to receive therefor the fees now chargeable by said officer. The office of register of the land-office and examiner-general shall be abolished from and after the election and qualification of the commissioner of the land-office.

SEC. 7. The State librarian shall be elected by the joint vote of the two branches of the legislature, for two years, and until his successor shall be elected and qualified. His salary shall be one thousand dollars per annum. He shall perform such duties as are now or may hereafter be prescribed by law.

SEC. 8. The county authorities now known as levy courts or county commissioners, shall hereafter be styled "county commissioners," and shall be elected by general ticket, and not by districts, by the voters of the several counties, on the first Wednesday in November, one thousand eight hundred and fifty-one, and on the same day in every second year thereafter. Said commissioners shall exercise such powers and duties only as the legislature may from time to time prescribe; but such powers and duties and the tenure of office shall be uniform throughout the State, and the legislature shall, at or before its second regular session, after the adoption of this constitution, pass such laws as may be necessary for determining the number for each county, and ascertaining and defining the powers, duties, and tenure of office of said commissioners; and until the passage of such laws the commissioners elected under this constitution shall have and exercise all the powers and duties in their respective counties, now exercised by the county authorities under the laws of the State.

SEC. 9. The general assembly shall provide by law for the election of road supervisors, in the several counties, by the voters of the election-districts respectively, and may provide by law for the election or appointment of such other county officers as may be required and are not herein provided for, and prescribe their powers and duties; but the tenure of office, their powers and duties, and mode of appointment, shall be uniform throughout the State.

SEC. 10. The qualified voters of each county, and the city of Baltimore, shall, at the first election of delegates after the adoption of this constitution, and every two years thereafter, elect a surveyor for the counties, and the city of Baltimore, respectively, whose duties and compensation shall be the same as are now prescribed by law for the county and city surveyors, respectively, or as may hereafter be prescribed by law. The term of office of said county and city surveyors, respectively, shall commence on the first Monday of January next succeeding their election. And vacancies in said office of surveyors, by death, resignation, or removal from their respective counties or city, shall be filled by the commissioners of the counties, or mayor and city council of Baltimore, respectively.

SEC. 11. The qualified voters of Worcester County shall, at the first election of delegates after the adoption of this constitution, and every two years thereafter, elect a wreck-master for the said county, whose duties and compensation shall be the same as are now prescribed or may be hereafter prescribed by law. The term of office of said wreck-master shall commence on the first Monday of January next succeeding his election; and a vacancy in said office, by death, resignation, or removal from the county, shall be filled by the county commissioners of said county, for the residue of the term thus made vacant.

ARTICLE VIII

NEW COUNTIES

SECTION 1. That part of Anne Arundel County called Howard district is hereby erected into a new county, to be called Howard County, the inhabitants whereof shall have, hold, and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties in this State; and its civil and municipal officers, at the time of the ratification of this constitution, shall continue in office until their successors shall have been elected or appointed, and shall have qualified as such; and all rights, powers, and obligations incident to Howard district of Anne Arundel County shall attach to Howard County.

SEC. 2. When that part of Alleghany County lying south and west of a line beginning at the summit of Big Back Bone or Savage Mountain, where that mountain is crossed by Mason and Dixon's line, and running thence by a straight line to the middle of Savage River where it empties into the Potomac River, thence by a straight line to the nearest point or boundary of the State of Virginia, then with said boundary to the Fairfax stone, shall contain a population of ten thousand, and the majority of electors thereof shall desire to separate and form a new county, and make known their desire by petition to the legislature, the legislature shall direct, at the next succeeding election, that the judges shall open a book at each election-district in said part of Alleghany County, and have recorded therein the vote of each elector "for or against" a new county. In case the majority are in favor, then said part of Alleghany County to be declared an independent county, and the inhabitants whereof shall have and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties in this State: *Provided*, That the whole representation in the returns of every census of the United States, hereafter taken, to pass a law for the general assembly of the county, when divided, shall not exceed the present delegation of Alleghany County, allowed under this constitution, until after the next census.

ARTICLE IX

MILITIA

SECTION 1. It shall be the duty of the legislature to pass laws for the enrolment of the militia; to provide for districting the State into divisions, brigades, battalions, regiments, and companies, and to pass laws for the effectual encouragement of volunteer corps by some mode which may induce the formation and continuance of at least one

volunteer company in every county and division in the city of Baltimore. The company, battalion, and regimental officers (staff-officers excepted) shall be elected by the persons composing their several companies, battalions, and regiments.

SEC. 2. The adjutant-general shall be appointed by the governor, by and with the advice and consent of the senate. He shall hold his office for the term of six years, and receive the same salary as heretofore, until changed by the legislature.

ARTICLE X

MISCELLANEOUS

SECTION 1. Every officer of this State, the governor excepted, the entire amount of whose pay or compensation received for the discharge of his official duties shall exceed the yearly sum of three thousand dollars, shall keep a book, in which shall be entered every sum or sums of money received by him or on his account as a payment or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer by whom it is directed to be kept, shall be returned yearly to the treasurer of the State for his inspection and that of the general assembly of Maryland; and each of such officers, when the amount received by him for the year shall exceed the sum of three thousand dollars, shall yearly pay over to the treasurer the amount of such excess by him received, subject to such disposition thereof as the legislature may deem just and equitable. And any such officer failing to comply with the said requisition shall be deemed to have vacated his office, and be subject to suit by the State for the amount that ought to have been paid into the treasury.

SEC. 2. The legislature shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested by this constitution in any department or office of the government, and the duties imposed upon them thereby.

SEC. 3. If in any election directed by this constitution any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered, unless in cases specially provided for by the constitution.

SEC. 4. The trial by jury of all issues of fact in civil proceedings, in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

SEC. 5. In the trial of all criminal cases the jury shall be the judges of law as well as fact.

SEC. 6. The legislature shall have power to regulate by law all matters which relate to the judges, time, place, and manner of holding elections in this State, and of making returns thereof: *Provided*, That the tenure and term of office, and the day of election, shall not be affected thereby.

SEC. 7. All rights vested, and all liabilities incurred, shall remain as if this constitution had not been adopted.

SEC. 8. The governor and all officers, civil and military, now holding commissions under this State, shall continue to hold and exercise their offices, according to their present tenure, until they shall be

superseded, pursuant to the provisions of this constitution, and until their successors be duly qualified.

SEC. 9. The sheriffs of the several counties of this State, and of the city of Baltimore, shall give notice of the several elections authorized by this constitution, in the manner prescribed by existing laws for elections under the present constitution.

SEC. 10. This constitution, if adopted by a majority of the legal votes cast on the first Wednesday of June next, shall go into operation on the fourth day of July next, and on and after said day shall supersede the present constitution of this State.

ARTICLE XI

AMENDMENT OF THE CONSTITUTION

It shall be the duty of the legislature, at its first session immediately succeeding ascertaining, at the next general election of delegates, the sense of the people of Maryland in regard to the calling a convention for altering the constitution; and in case the majority of votes cast at said election shall be in favor of calling a convention, the legislature shall provide for assembling such convention, and electing delegates thereto at the earliest convenient day; and the delegates to the said convention shall be elected by the several counties of the State and the city of Baltimore, in proportion to their representation respectively in the senate and house of delegates at the time when said convention may be called.

Done in convention, the 13th day of May, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of the United States the seventy-fifth.

J. G. CHAPMAN, *President.*

GEORGE G. BREWER, *Secretary.*

CONSTITUTION OF MARYLAND—1864 * a

DECLARATION OF RIGHTS

We, the people of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good constitution in this State, for the sure foundation and more permanent security thereof, declare:

ARTICLE 1. That we hold it to be self-evident that all men are created equally free; that they are endowed by their Creator with certain unalienable rights, among which are life, liberty, the enjoyment of the proceeds of their own labor, and the pursuit of happiness.

ART. 2. That all government of right originates from the people, is

* Verified by text in Edward Otis Hinkley's edition. Published by authority. Annapolis; Richard P. Bayly. 1865. Pp. 102.

^a This constitution was framed by a convention which met at Annapolis April 27, 1864, and completed its labors September 6, 1864. It was submitted to the people, and ratified October 12 and 13, 1864, by the following vote: Home vote, 27,541 for, 29,536 against, and 61 blank; Soldiers' vote, 2,633 for, and 263 against; majority in favor of ratification, 375.