

## THE SECOND CONSTITUTION OF NEW YORK, 1821.

We, the people of the state of New York, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our form of government, do establish this constitution.

### ARTICLE I. [\[1\]](#)

Section 1. [Legislative power.]—The legislative power of this state shall be vested in a senate and an assembly.

§ 2. [Senate and assembly, how constituted.]—The senate shall consist of thirty-two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

§ 3. [Special powers of two houses.]—A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each house shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall act as governor.

§ 4. [Journal of proceedings; public sessions; adjournments.]—Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

§ 5. [Senate districts.]—The state shall be divided into eight districts, to be called senate districts, each of which shall choose four senators.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond, and New York.

The second district shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan.

The third district shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie, and Schenectady.

The fourth district shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin, and St. Lawrence.

The fifth district shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis, and Jefferson.

The sixth district shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins, and Tioga.

The seventh district shall consist of the counties of Onondaga, Cayuga, Seneca, and Ontario.

The eighth district shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus, and Chautauqua.

And as soon as the senate shall meet, after the first election to be held in pursuance of this Constitution, they shall cause the senators to be divided by lot, into four classes, of eight in each, so that every district shall have one senator of each class; the classes to be numbered, one, two, three, and four. And the seats of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year; in order that one senator be annually elected in each senate district.

§ 6. [Census; reapportionment of senators.]—An enumeration of the inhabitants of the state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers, and persons of colour not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

§ 7. [Apportionment of members of assembly]—The members of the assembly shall be chosen by counties, and shall be apportioned among the several counties of the state, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of colour, not taxed. An apportionment of members of assembly shall be made by the legislature, at its first session after the return of every enumeration; and when made, shall remain unaltered until another enumeration shall have been taken. But an apportionment of members of the assembly shall be made by the present legislature, according to the last enumeration taken under the authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of the assembly; and no new county shall hereafter be erected, unless its population shall entitle it to a member.

§ 8. [Bills may originate in either house.]—Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.

§ 9. [Compensation of members.]—The members of the legislature shall receive for their services a compensation, to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the year in which it shall have been made. And no law shall be passed increasing the compensation of the members of the legislature beyond the sum of three dollars a

day.

§ 10. [Members not to receive civil appointment.]—No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.

§ 11. [Disqualification of members.]—No person, being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, while a member of the legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

§ 12. [Governor to approve bills.]—Every bill which shall have passed the senate and assembly shall, before it become a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated; who shall enter the objections at large On their journal and proceed to reconsider it. If, after such reconsideration, two thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for, and against, the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

§ 13. [Removals by legislature.]—All officers holding their offices during good behavior may be removed by joint resolution of the two houses of the legislature, if two thirds of all the members elected to the assembly, and a majority of all the members elected to the senate, concur therein.

§ 14. [Political year; meeting of legislature.]—The political year shall begin on the first day of January; and the legislature shall, every year, assemble on the first Tuesday of January, unless a different day shall be appointed by law.

§ 15. [Elections, when held.]—The next election for governor, lieutenant governor, senators, and members of assembly shall commence on the first Monday of November, one thousand eight hundred and twenty-two; and all subsequent elections shall be held at such time, in the month of October or November, as the legislature shall, by law, provide.

§ 16. [Commencement of official term after first election.]— The governor, lieutenant governor, senators, and members of assembly, first elected under this Constitution, shall enter on the duties of their respective offices on the first day of January, one thousand eight hundred and twenty-three; and the governor, lieutenant governor, senators, and members of assembly, now in office, shall continue to hold the same until the first day. of January, one thousand eight hundred and twenty-three, and no longer.

## ARTICLE II.

Section 1. [Qualifications of voters.]—Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote; and shall have, within the next year preceding the election, paid a tax to the state or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or, being armed and equipped according to law, shall have performed, within that year, military duty in the militia of this state; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town, or village in this state; and also, every male citizen of the age of twenty-one years, who shall have been, for three years next preceding such election, an inhabitant of this state; and, for the last year, a resident in the town or county where he may offer his vote; and shall have been, within the last year, assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people; but no man of colour, unless he shall have been for three years a citizen of this state, and for one year next preceding any election, shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon; and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of colour shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

§ 2. [Exclusion from right of suffrage.]—Laws may be passed excluding from the right of suffrage persons who have been, or may be, convicted of infamous crimes.

§ 3. [Registration of voters.]—Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage, hereby established.

§ 4. [Elections to be by ballot.]—All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

## ARTICLE III.

Section 1. [Governor and lieutenant governor; term of office.]—The executive power shall be vested in a governor. He shall hold his office for two years; and a lieutenant governor shall be chosen at the same time, and for the same term.

§ 2. [Qualifications of governor.]—No person, except a native citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this state; unless he shall have been absent during that time, on public business of the United States, or of this state.

§ 3. [Governor and lieutenant governor, election of.]—The governor and lieutenant governor shall be elected at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant governor, the two houses of the legislature shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes, for governor or lieutenant governor.

§ 4. [Governor's general powers.] —The governor shall be general and commander-in-chief of all the militia, and admiral of the navy of the state. He shall have power to convene the legislature (or the senate only), on extraordinary occasions. He shall communicate by message to the legislature at every session, the condition of the state; and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

§ 5. [Governor may grant pardons and reprieves.]—The governor shall have power to grant reprieves and pardons after conviction, for all offenses, except treason and cases of impeachment. Upon convictions for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the legislature, at its next meeting; when the legislature shall either pardon, or direct the execution of the criminal, or grant a farther reprieve.

§ 6. [When lieutenant governor to act as governor.]—In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor, for the residue of the term, or until the governor, absent or impeached, shall return, or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue commander-in-chief of all the military force of the state.

§ 7. [When president of senate to act as governor.]—The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall act as governor until the vacancy shall be filled, or the disability shall cease.

## **ARTICLE IV.**

Section 1. [Militia officers, how chosen.]—Militia officers shall be chosen or appointed as follows: Captains, subalterns, and noncommissioned officers shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments, and separate battalions. Brigadier-generals, by the field officers of their respective brigades. Major-generals, brigadier-generals, and commanding officers of regiments or separate battalions, shall appoint the staff officers of their respective divisions,

brigades, regiments, or separate battalions.

§ 2. [Governor to appoint certain militia officers.]—The governor shall nominate, and with the consent of the senate, appoint, all major-generals, brigade inspectors, and chiefs of the staff departments, except the adjutant-general and commissary-general. The adjutant-general shall be appointed by the governor.

§ 3. [Legislature to regulate elections of militia officers.]— The legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the governor.

§ 4. [Commissioned officers; how commissioned and removed.]—The commissioned officers of the militia shall be commissioned by the governor, and no commissioned officer shall be removed from office unless by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commission, subject to removal, as before provided.

§ 5. [Legislature may prescribe other modes of appointment and removal.]—In case the mode of election and appointment of militia officers, hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two thirds of the members present in each house shall concur therein.

§ 6. [State officers; how appointed.]—The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general shall be appointed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively; after which, they shall meet together, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney-general, surveyor-general, and commissary-general shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

§ 7. [Governor to appoint judicial officers, except justices of the peace.]—The governor shall nominate, by message, in writing, and with the consent of the senate, shall appoint, all judicial officers, except justices of the peace, who shall be appointed in manner following, that is to say: The board of supervisors in every county in this state shall, at such times as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in the respective counties. And the judges of the respective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be the duty of the said board of supervisors, and judges of county courts, to compare such nominations, at such time and place as the legislature may direct. And if, on such comparison, the said boards of supervisors and judges of county courts shall agree in their nominations, in all, or in part, they shall file a certificate of the nominations in which they shall agree, in the office of the clerk of the county; and the person or persons named in such certificates shall be justices of the peace. And in case of disagreement in whole, or in part, it shall be the farther duty of the said boards of

supervisors, and judges respectively, to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations, and appoint so many justices of the peace as shall be requisite to fill the vacancies.

Every person appointed a justice of the peace shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said court. And no justice of the peace shall be removed until he shall have notice of the charges made against him, and an opportunity of being heard in his defense.

§ 8. [Sheriffs, clerks, and registers; election and removal.]— Sheriffs and clerks of counties, including the register and clerk of the city and county of New York, shall be chosen by the electors of the respective counties, once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff; and the governor may remove any such sheriff, clerk, or register, at any time within the three years for which he shall be elected, giving to such sheriff, clerk, or register, a copy of the charge against him, and an opportunity of being heard in his defense, before any removal shall be made.

§ 9. [District attorneys and clerks of courts; appointment and removal.]—The clerks of courts, except those clerks whose appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys, by the county courts. Clerks of courts and district attorneys shall hold their offices for three years, unless sooner removed by the courts appointing them.

§ 10. [Mayors, how appointed.]—The mayors of all the cities in this state shall be appointed annually, by the common councils of the respective cities.

§ 11. [Coroners, election and removal.]—So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as sheriffs, and shall hold their offices for the same term, and be removable in like manner.

§ 12. [Masters, examiners, and registers in chancery.]—The governor shall nominate, and, with the consent of the senate, appoint, masters and examiners in chancery, who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The register and assistant registers shall be appointed by the chancellor, and hold their offices during his pleasure.

§ 13. [Officers of other courts, how chosen.]—The clerk of the court of oyer and terminer, and general sessions of the peace. in and for the city and county of New York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of the said court: and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts, or by the governor, with the consent of the senate, as may be directed by

law.

§ 14. [Justices' courts in New York.]—The special justices, and the assistant justices, and their clerks, in the city of New York, shall be appointed by the common council of the said city; and shall hold their offices for the same term that the justices of the peace in the other counties of this state hold their offices, and shall be removable in like manner.

§ 15. [Other officers, how chosen.]—All officers heretofore elective by the people shall continue to be elected; and all other officers whose appointment is not provided for by this constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as may by law be directed.

§ 16. [Duration of offices not herein provided for.]—Where the duration of any office is not prescribed by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

## ARTICLE V.

Section 1. [Court of impeachment, and for correction of errors.]—The court for the trial of impeachments and the correction of errors shall consist of the president of the senate, the senators, the chancellor, and the justices of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor or any justice of the supreme court, the person so impeached shall be suspended from exercising his office until his acquittal; and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court shall assign the reasons for their judgment, but shall not have a voice for its affirmance or reversal.

§ 2. [Assembly may impeach civil officers.]—The assembly shall have the power of impeaching all civil officers of this state for mal and corrupt conduct in office, and for high crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question, according to evidence; and no person shall be convicted without the concurrence of two thirds of the members present. Judgment, in cases of impeachment, shall not extend farther than the removal from office, and disqualification to hold, and enjoy, any office of honor, trust, or profit, under this state; but the party convicted shall be liable to indictment and punishment, according to law.

§ 3. [Chancellor and supreme court justices, official term.]— The chancellor and justices of the supreme court shall hold their offices during good behavior, or until they shall attain the age of sixty years.

§ 4. [Supreme court, how constituted.]—The supreme court shall consist of a chief justice and two justices, any of whom may hold the court.



§ 5. [Judicial circuits.]—The state shall be divided, by law, into a convenient number of circuits, not less than four, nor exceeding eight, subject to alteration, by the legislature, from time to time, as the public good may require; for each of which a circuit judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court; and who shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court; and in courts of oyer and terminer and gaol delivery. And such equity powers may be vested in the said circuit judges, or in the county courts, or in such other subordinate courts, as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

§ 6. [County judges and recorders.]—Judges of the county courts and recorders of cities shall hold their offices for five years, but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

§ 7. [Chancellor and supreme court judges to hold no other office.]—Neither the chancellor nor justices of the supreme court nor any circuit judge shall hold any other office or public trust. All votes for any elective office, given by the legislature or the people, for the chancellor or a justice of the supreme court or circuit judge, during his continuance in his judicial office, shall be void.

## **ARTICLE VI.**

Section 1. [Official oath.]—Members of the legislature and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the state of New York; and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability.

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

## **ARTICLE VII.**

Section 1. [Rights of citizens.]—No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

§ 2. [Trial by jury preserved.]—The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever; and no new court shall be instituted, but such as shall proceed according to the course of the common law; except such courts of equity as the legislature is herein authorized to establish.

§ 3. [Religious toleration.]—The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state, to all mankind; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of this state.

§ 4. [Clergymen not eligible to office.]—AND WHEREAS, The ministers of the gospel are, by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their functions: therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretense or description whatever, be eligible to, or capable of holding, any civil or military office or place within this state.

§ 5. [Militia to be maintained; who may be excused from service.]—The militia of this state shall at all times hereafter, be armed and disciplined, and in readiness for service; but all such inhabitants of this state, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom by paying to the state an equivalent in money; and the legislature shall provide, by law, for the collection of such equivalent, to be estimated according to the expense, in time and money, of an ordinary able-bodied militia-man.

§ 6. [Habeas corpus, when writ may be suspended.]—The privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require its suspension.

§ 7. [Rights of accused in criminal cases; taking private property for public use.]—No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment; and in cases of the militia, when in actual service, and the land and naval forces in time of war, or which this state may keep, with the consent of Congress, in time of peace; and in cases of petit larceny, under the regulation of the legislature) unless on presentment or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel, as in civil actions. No person shall be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.

§ 8. [Freedom of speech and press; evidence in libel cases.] — Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence, to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

§ 9. [Two-thirds bills.]—The assent of two thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private

purposes, or creating, continuing, altering, or renewing, any body politic or corporate.

§ 10. [Common school funds; canals; salt springs.]—The proceeds of all lands belonging to this state, except such parts thereof as may be reserved or appropriated to public use, or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common school fund, shall be and remain a perpetual fund; the interest of which shall be inviolably appropriated and applied to the support of common schools throughout this state. Rates of toll, not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, shall be imposed on, and collected from, all parts of the navigable communications between the great western and northern lakes and the Atlantic ocean, which now are, or hereafter shall be, made and completed; and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand, five hundred dollars, otherwise appropriated by the said act, and the amount of the revenue, established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers, shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest, and reimbursement of the capital, of the money already borrowed, or which hereafter shall be borrowed, to make and complete the same. And neither the rates of toll on the said navigable communications, nor the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steamboat passengers, shall be reduced or diverted, at any time before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell or dispose of the salt springs belonging to this state, nor the lands contiguous thereto, which may be necessary, or convenient for their use, nor the said navigable communications, or any part or section thereof; but the same shall be and remain the property of this state.

§ 11. [Lotteries prohibited.]—No lottery shall hereafter be authorized in this state; and the legislature shall pass laws to prevent the sale of all lottery tickets within this state, except in lotteries already provided for by law.

§ 12. [Indian lands.]—No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of or with the Indians in this state, shall be valid, unless made under the authority, and with the consent, of the legislature.

§ 13. [Common law continued.]—Such parts of the common law and of the acts of the legislature of the colony of New York as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the state of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed, or altered, and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such

alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

§ 14. [Royal grants and charters preserved.]—All grants of land within this state, made by the King of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this state, made by the authority of the said King or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the state, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

## **ARTICLE VIII.**

Section 1. [Constitution, how amended.]—Any amendment or amendments to this Constitution may be proposed in the senate or assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen; and shall be published for three months previous to the time of making such choice; and, if in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment, or amendments to the people, in such manner, and at such time, as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the Constitution.

## **ARTICLE IX.**

Section 1. (Constitution, when to take effect.)—This Constitution shall be in force from the last day of December, in the year one thousand eight hundred and twenty-two. But all those parts of the same which relate to the right of suffrage, the division of the state into senate districts, the number of members of the assembly to be elected, in pursuance of this constitution, the apportionment of members of assembly; the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, the continuance of the members of the present legislature in office until the first day of January, in the year one thousand eight hundred and twenty-three, and the prohibition against authorizing lotteries, the prohibition against appropriating the public moneys or property for local or prints purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two thirds of the members elected to each branch of the legislature,—shall be in force, and take effect, from the last day of February next. The members of the present legislature shall, on the first Monday of March next, take and subscribe an oath or affirmation, to support this Constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners, shall be elected at the election

hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; but they shall not enter on the duties of their offices before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty-two, shall expire on that day; but the officers then in commission may respectively continue to hold their said offices until new appointments, or elections, shall take place under this Constitution.

§ 2. [Existing election laws applicable to first election.]— The existing laws relative to the manner of notifying, holding, and conducting elections, making returns, and canvassing votes, shall be in force, and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, so far as the same are applicable. And the present legislature shall pass such other and further laws as may be requisite for the execution of the provisions of this Constitution, in respect to elections.

DONE in convention, at the Capitol in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty-one, and of the independence of the United States of America, the forty-sixth. *In witness* whereof, we have hereunto subscribed our names.

DANIEL D. TOMPKINS,  
*President and Delegate from  
the county of Richmond.*

John F. Bacon,  
Samuel S. Gardiner,

*Secretaries.*

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## AMENDMENTS TO THE CONSTITUTION OF 1821

*(FROM 1821 TO 1846.)*

1826. [Qualifications of voters.]—That so much of the first section of the second article of the Constitution as prescribes the qualifications of voters, other than persons of color, be and the same is hereby abolished, and that the following be substituted in the place thereof:

Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are or hereafter may be elective by the people.

1826. [Justices of the peace, how chosen and classified.]— That the people of this state, in their several towns, shall, at their annual election, and in such manner as the legislature shall direct, elect by ballot

their justices of the peace; and the justices so elected in any town shall immediately thereafter meet together, and, in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered one, two, three, and four; and the office of number one shall expire at the end of the first year; of number two at the end of the second year; of number three at the end of the third year; and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected; and that so much of the seventh section of the fourth article of the Constitution of this state as is inconsistent with this amendment, be abrogated.

1833. [Election of mayor in New York.]—At the end of the tenth section of the fourth article of the said Constitution, add the following words: "Except in the city of New York, in which the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers."

1833. [Duties on salt.]—That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the Constitution of this state, may at any time hereafter be reduced by an act of the legislature of this state; but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel; and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section; and that so much of the said tenth section of the seventh article of the Constitution of this state as is inconsistent with this amendment be abrogated.

1835. [Canals; duties on salt; auction sales.]—Whenever a sufficient amount of money shall be collected and safely invested for the reimbursement of such part as may then be unpaid of the money borrowed for the construction of the Erie and Champlain canals, the tenth section of the seventh article of the Constitution of this state, so far as it relates to the amount of duties on the manufacture of salt, and the amount of duties on goods sold at auction, shall cease and determine; and thereafter the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the act of the fifteenth of April; one thousand eight hundred and seventeen, and the duties on the manufacture of salt, shall be restored to the general fund.

1839. [Election of mayor.]—Mayors of the several cities in this state may be elected annually by the male inhabitants entitled to vote for members of the common council of such cities respectively, in such manner as the legislature shall by law provide; and the legislature may, from time to time, make such provision by law for the election of any one or more of such mayors; but until such provision be made by law, such mayor (excepting the mayor of the city of New York) shall be appointed in the manner now prescribed by the Constitution of this state; and . so much of the tenth section of article fourth of the Constitution of this state as is inconsistent with this amendment is hereby abrogated.

1845. [Procedure on removal of judicial officers.]—No judicial officer shall be removed by the joint resolution of the two houses of the legislature, or by the senate, on the recommendation of the governor, unless the cause of such removal shall be entered on the journal of both houses, or of the senate, as the

case may be; and such officer against whom the legislature or the senate may be about to proceed shall be served with notice thereof, accompanied with a copy of the causes alleged for his removal, at least twenty days before the day on which either house shall act thereupon, and shall have an opportunity to be heard in his defense before any question shall be taken upon such removal; and the yeas and nays shall be entered upon the journals of the senate, or houses, as the case may be.

1845. [Abrogating property qualifications to office.]—No property qualification shall be required to render a person eligible to or capable of holding any office or public trust in this state.

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### **Footnotes**

**Footnote 1:** This Constitution was framed by a Convention which met on August 28, 1821, and adjourned November 10 of the same year. The Constitution was approved by the people at a special election held January 15, 16, and 17 following, and took effect December 31, 1822. It is often cited as the Constitution of 1822. A discussion of the Second Constitution is contained in Lincoln I:613-756. The section headings appearing in the above text in brackets are not in the original but have been derived mainly from Lincoln.

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