

gress; and I will to the utmost of my Ability endeavour to form such a System of Government for the People of this State as in my Opinion may be best adapted to promote their Happiness, and secure to them the Enjoyment of their natural, civil and religious Rights and Privileges.

I do profess Faith in God the Father, and in Jesus Christ his only Son, and in the Holy Ghost, one God blessed for evermore; and I do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine Inspiration.

A DECLARATION of RIGHTS and FUNDAMENTAL RULES of the *DELAWARE STATE*, formerly stiled the Government of the Counties of *New-Castle, Kent and Sussex, upon Delaware.*

1. **T**HAT all Government of Right originates from the People, is founded in compact only, and instituted solely for the Good of the Whole.

2. **T**HAT all Men have a natural and unalienable Right to worship Almighty God according to the Dictates of their own Consciences and Understandings; and that no Man ought or of Right can be compelled to attend any religious Worship or maintain any Ministry contrary to or against his own free Will and Consent, and that no Authority can or ought to be vested in, or assumed by any Power whatever, that shall in any Case interfere with or in any Manner controul the Right of Conscience in the free Exercise of religious Worship.

3. **T**HAT all Persons professing the Christian Religion ought forever to enjoy equal Rights and Privileges in this State, unless under Colour of Religion any Man disturb the Peace, the Happiness or Safety of Society.

4. **T**HAT the People of this State have the sole, exclusive and Inherent Right of governing and regulating the internal Police of the same.

5. **T**HAT Persons intrusted with the Legislative and Executive Powers are the Trustees and Servants of the Public, and as such accountable for their Conduct; wherefore whenever the Ends of Government are perverted, and Public Liberty manifestly endangered by the Legislative singly, or a treacherous Combination of both, the People may, and of Right ought to, establish a new or reform the old Government.

6. **T**HAT

6. THAT the Right in the People to participate in the Legislature is the Foundation of Liberty and of all free Government, and for this End all Elections ought to be free and frequent, and every Freeman having sufficient Evidence of a permanent common Interest with, and Attachment to, the Community, hath a Right of Suffrage.

7. THAT no Power of suspending Laws, or the Execution of Laws, ought to be exercised, unless by the Legislature.

8. THAT for Redress of Grievances, and for amending and strengthening of the Laws, the Legislature ought to be frequently convened.

9. THAT every Man hath a Right to petition the Legislature for the Redress of Grievances in a peaceable and orderly Manner.

10. THAT every Member of Society hath a Right to be protected in the Enjoyment of Life, Liberty and Property, and therefore is bound to contribute his Proportion towards the Expence of that Protection, and yield his personal Service when necessary, or an Equivalent thereto; but no Part of a Man's Property can be justly taken from him or applied to public Uses without his own Consent or that of his legal Representatives: Nor can any Man that is conscientiously scrupulous of bearing Arms in any Case be justly compelled thereto if he will pay such Equivalent.

11. THAT retrospective Laws, punishing Offences committed before the Existence of such Laws, are oppressive and unjust, and ought not to be made.

12. THAT every Freeman for every Injury done him in his Goods, Lands or Person, by any other Person, ought to have Remedy by the Course of the Law of the Land, and ought to have Justice and Right for the Injury done to him freely without Sale, fully without any Denial, and speedily without Delay, according to the Law of the Land.

13. THAT Trial by Jury of Facts where they arise is one of the greatest Securities of the Lives, Liberties and Estates of the People.

14. THAT in all Prosecutions for criminal Offences, every Man hath a Right to be informed of the Accusation against him, to be allowed Counsel, to be confronted with the Accusers or Witnesses, to examine Evidence on Oath in his Favour and to a speedy Trial by an impartial Jury, without whose unanimous Consent he ought not to be found Guilty.

15. THAT no Man in the Courts of common Law ought to be compelled to give Evidence against himself.

16. THAT excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel or unusual Punishments inflicted.

17. THAT

17. THAT all Warrants without Oath to search suspected Places, or to seize any Person or his Property, are grievous and oppressive, and all general Warrants to search suspected Places, or to apprehend all Persons suspected without naming or describing the Place or any Person in special, are illegal and ought not to be granted.

18. THAT a well regulated Militia is the proper, natural and safe Defence of a free Government.

19. THAT standing Armies are dangerous to Liberty, and ought not to be raised or kept up without the Consent of the Legislature.

20. THAT in all Cases and at all Times the Military ought to be under strict Subordination to and governed by the Civil Power.

21. 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.

22. 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.

23. THAT the Liberty of the Press ought to be inviolably preserved.



The CONSTITUTION or SYSTEM of GOVERNMENT, agreed to and resolved upon by the Representatives in full CONVENTION of the DELAWARE STATE, formerly stiled the Government of the Counties of *New-Castle, Kent and Suffex*, upon *Delaware*, the said Representatives being chosen by the Freemen of the said State for that exprefs Purpose.

Article 1. THE Government of the Counties of *New-Castle, Kent and Suffex*, upon *Delaware*, shall hereafter in all Public and other Writings be called, THE DELAWARE STATE.

2. THE

2. **THE** Legislature shall be formed of two distinct Branches :—They shall meet once or oftener in every Year, and shall be called **THE GENERAL ASSEMBLY OF DELAWARE.**

3. **ONE** of the Branches of the Legislature shall be called **THE HOUSE OF ASSEMBLY**, and shall consist of seven Representatives, to be chosen for each County annually of such Persons as are Freeholders of the same.

4. **THE** other Branch shall be called **THE COUNCIL**, and consist of nine Members, three to be chosen for each County at the Time of the first Election of the Assembly, who shall be Freeholders of the County for which they are chosen, and be upwards of twenty-five Years of Age. At the End of one Year after the General Election, the Counsellor who had the smallest Number of Votes in each County shall be displaced, and the Vacancies thereby occasioned supplied by the Freemen of each County choosing the same or another Person at a new Election in Manner aforesaid. At the End of two Years after the first General Election, the Counsellor who stood second in Number of Votes in each County shall be displaced, and the Vacancies thereby occasioned supplied by a new Election in Manner aforesaid. And at the End of three Years from the first general Election, the Counsellor who had the greatest Number of Votes in each County shall be displaced, and the Vacancies thereby occasioned supplied by a new Election in Manner aforesaid. And this Rotation of a Counsellor being displaced at the End of three Years in each County and his Office supplied by a new Choice shall be continued afterwards in due Order annually forever, whereby, after the first general Election, a Counsellor will remain in Trust for three Years from the Time of his being elected, and a Counsellor will be displaced and the same or another chosen in each County at every Election.

5. **THE** Right of Suffrage in the Election of Members for both Houses shall remain as exercised by Law at present ; and each House shall choose its own Speaker, appoint its own Officers, judge of the Qualifications and Elections of its own Members, settle its own Rules of Proceedings and direct Writs of Election for supplying intermediate Vacancies. They may also severally expel any of their own Members for Misbehaviour, but not a second Time in the same Sessions for the same Offence, if re-elected ; and they shall have all other Powers necessary for the Legislature of a free and Independent State.

6. **ALL** Money-Bills for the Support of Government shall originate in the House of Assembly, and may be altered, amended or rejected by the Legislative Council. All other Bills and Ordinances may take Rise in the House of Assembly or Legislative Council, and may be altered, amended or rejected by either.

7. **A** PRESIDENT or Chief Magistrate shall be chosen by joint Ballot of both Houses, to be taken in the House of Assembly, and the Box examined by the Speakers of each House in the Presence of the other Members, and in Case the Numbers for the two highest

in Votes should be equal, then the Speaker of the Council shall have an additional casting Voice, and the Appointment of the Person who has the Majority of Votes shall be entered at large on the Minutes and Journals of each House, and a Copy thereof on Parchment, certified and signed by the Speakers respectively, and sealed with the Great-Seal of the State, which they are hereby authorised to affix, shall be delivered to the Person so chosen President, who shall continue in that Office three Years and until the Sitting of the next General Assembly and no longer, nor be eligible until the Expiration of three Years after he shall have been out of that Office. An adequate but moderate Salary shall be settled on him during his continuance in Office.—He may draw for such Sums of Money as shall be appropriated by the General Assembly, and be accountable to them for the same.—He may by and with the Advice of the Privy-Council, lay Embargoes or prohibit the Exportation of any Commodity for any Time not exceeding thirty Days in the Recess of the General Assembly.—He shall have the Power of granting Pardons or Reprieves, except where the Prosecution shall be carried on by the House of Assembly, or the Law shall otherwise direct, in which Cases no Pardon or Reprieve shall be granted but by a Resolve of the House of Assembly :—And may exercise all the other executive Powers of Government, limited and restrained as by this Constitution is mentioned, and according to the Laws of the State. And on his Death, Inability or Absence from the State, the Speaker of the Legislative Council for the Time being shall be Vice-President, and in Case of his Death, Inability or Absence from the State, the Speaker of the House of Assembly shall have the Powers of a President until a new Nomination is made by the General Assembly.

8. A PRIVY-COUNCIL consisting of four Members shall be chosen by Ballot, two by the Legislative Council, and two by the House of Assembly : Provided, that no regular Officer of the Army or Navy in the Service and Pay of the Continent, or of this, or of any other State shall be eligible. And a Member of the Legislative Council or of the House of Assembly being chosen of the Privy-Council and accepting thereof shall thereby lose his Seat. Three Members shall be a Quorum, and their Advice and Proceedings shall be entered of Record and signed by the Members present, (to any Part of which any Member may enter his Dissent) to be laid before the General Assembly when called for by them. Two Members shall be removed by Ballot, one by the Legislative Council and one by the House of Assembly at the End of two Years, and those who remain the next Year after, who shall severally be ineligible for the three next Years. These Vacancies as well as those occasioned by Death or Incapacity shall be supplied by new Elections in the same Manner. And this Rotation of a Privy-Counsellor shall be continued afterwards in due Order annually forever. The President may by Summons convene the Privy-Council at any Time when the Public Exigences may require, and at such Place as he shall think most convenient, when and where they are to attend accordingly.

9. THE President, with the Advice and Consent of the Privy-Council, may embody the Militia, and act as Captain-General and Commander

Commander in Chief of them and the other Military Force of this State under the Laws of the same.

10. EITHER House of the General Assembly may adjourn themselves respectively. The President shall not prorogue, adjourn or dissolve the General Assembly, but he may with the Advice of the Privy-Council or on the Application of a Majority of either House, call them before the Time they shall stand adjourned, and the two Houses shall always sit at the same Time and Place, for which Purpose immediately after every Adjournment the Speaker of the House of Assembly shall give Notice to the Speaker of the other House of the Time to which the House of Assembly stands adjourned.

11. THE Delegates for *Delaware* to the Congress of the UNITED STATES OF AMERICA shall be chosen annually, or superseded in the mean Time, by joint Ballot of both Houses in the General Assembly.

12. THE President and General Assembly shall by joint Ballot appoint three Justices of the Supreme Court for the State, one of whom shall be Chief-Justice, and a Judge of Admiralty, and also four Justices of the Courts of Common Pleas and Orphans Courts for each County, one of whom in each Court shall be stiled *Chief Justice*, (and in Case of Division on the Ballot, the President shall have an additional casting Voice) to be commissioned by the President under the Great-Seal, who shall continue in Office during good Behaviour, and during the Time the Justices of the said Supreme Court and Courts of Common Pleas remain in Office they shall hold none other except in the Militia—Any one of the Justices of either of said Courts shall have Power in Case of the non-coming of his Brethren to open and adjourn the Court. An adequate fixed but moderate Salary shall be settled on them during their Continuance in Office. The President and Privy-Council shall appoint the Secretary, the Attorney-General, Registers for the Probate of Wills and granting Letters of Administration, Registers in Chancery, Clerks of the Courts of Common-Pleas and Orphans Courts, and Clerks of the Peace, who shall be commissioned as aforesaid and remain in Office during five Years, if they behave themselves well; during which Time the said Registers in Chancery and Clerks shall not be Justices of either of the said Courts of which they are Officers, but they shall have Authority to sign all Writs by them issued, and take Recognizances of Bail. The Justices of the Peace shall be nominated by the House of Assembly, that is to say, They shall name twenty-four Persons for each County, of whom the President, with the Approbation of the Privy-Council, shall appoint twelve, who shall be commissioned as aforesaid, and continue in Office during seven Years, if they behave themselves well; and in Case of Vacancies, or if the Legislative shall think proper to increase the Number, they shall be nominated and appointed in like Manner. The Members of the Legislative and Privy-Councils shall be Justices of the Peace for the whole State, during their continuance in Trust; and the Justices of the Courts of Common Pleas shall be Conservators of the Peace in their respective Counties.

13. THE Justices of the Courts of Common Pleas and Orphans Courts shall have the Power of holding inferior Courts of Chancery as heretofore, unless the Legislature shall otherwise direct.

14. THE Clerks of the Supreme Court shall be appointed by the Chief-Justice thereof, and the Recorders of Deeds by the Justices of the Courts of Common Pleas for each County severally, and commissioned by the President under the Great-Seal, and continue in Office five Years, if they behave themselves well.

15. THE Sheriffs and Coroners of the respective Counties shall be chosen annually as heretofore; and any Person having served three Years as Sheriff shall be ineligible for three Years after; and the President and Privy-Council shall have the Appointment of such of the two Candidates returned for said Offices of Sheriff and Coroner as they shall think best qualified, in the same Manner that the Governor heretofore enjoyed this Power.

16. THE General Assembly by joint Ballot shall appoint the Generals and Field-Officers, and all other Officers in the Army or Navy of this State. And the President may appoint during Pleasure, until otherwise directed by the Legislature, all necessary Civil Officers not herein before mentioned.

17. THERE shall be an Appeal from the Supreme Court of *Delaware* in Matters of Law and Equity to a Court of seven Persons, to consist of the President for the Time being, who shall preside therein, and six others, to be appointed, three by the Legislative Council and three by the House of Assembly, who shall continue in Office during good Behaviour, and be commissioned by the President under the Great-Seal; which Court shall be stiled *The Court of Appeals*, and have all the Authority and Powers heretofore given by Law in the last Resort to the King in Council under the old Government. The Secretary shall be the Clerk of this Court, and Vacancies therein occasioned by Death or Incapacity shall be supplied by new Elections in Manner aforesaid.

18. THE Justices of the Supreme Court and Courts of Common-Pleas, the Members of the Privy-Council, the Secretary, the Trustees of the Loan-Office and Clerks of the Courts of Common-Pleas, during their continuance in Office, and all Persons concerned in any Army or Navy Contracts, shall be ineligible to either House of Assembly; and any Member of either House accepting of any other of the Offices herein before mentioned (excepting the Office of a Justice of the Peace) shall have his Seat thereby vacated, and a new Election shall be ordered.

19. THE Legislative Council and Assembly shall have the Power of making the Great-Seal of this State, which shall be kept by the President, or in his Absence by the Vice-President, to be used by them as occasion may require. It shall be called *The Great-Seal of the Delaware State*, and shall be affixed to all Laws and Commissions.

20. COMMISSIONS shall run in the Name of THE DELAWARE STATE, and bear Test by the President. Writs shall run in the same Manner, and bear Test in the Name of the Chief-Justice or Justice first named in the Commissions for the several Courts, and be sealed with the Public Seals of such Courts. Indictments shall conclude, against the Peace and Dignity of the State.

21. IN Case of Vacancy of the Offices above directed to be filled by the President and General Assembly, the President and Privy-Council may appoint others in their Stead until there shall be a new Election.

22. EVERY Person, who shall be chosen a Member of either House, or appointed to any Office or Place of Trust, before taking his Seat, or entering upon the Execution of his Office, shall take the following Oath, or Affirmation if conscientiously scrupulous of taking an Oath, *to wit,*

“ I *A. B.* will bear true Allegiance to the *Delaware* State, submit to its Constitution and Laws, and do no Act wittingly where- by the Freedom thereof may be prejudiced.”

And also make and subscribe the following Declaration, *to wit,*

“ I *A. B.* do profess Faith in God the Father, and in Jesus Christ his only Son, and in the Holy Ghost, one God blessed for evermore; and I do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine Inspiration.”

And All Officers shall also take an Oath of Office.

23. THE President when he is out of Office and within eighteen Months after, and all others, offending against the State either by Mal-Administration, Corruption or other Means, by which the Safety of the Commonwealth may be endangered, within eighteen Months after the Offence committed, shall be impeachable by the House of Assembly before the Legislative Council: Such Impeachment to be prosecuted by the Attorney-General or such other Person or Persons as the House of Assembly may appoint, according to the Laws of the Land. If found Guilty, he or they shall be either forever disabled to hold any Office under Government, or removed from Office *pro tempore*, or subjected to such Pains and Penalties as the Laws shall direct. And all Officers shall be removed on Conviction of Misbehaviour at Common Law or on Impeachment, or upon the Address of the General Assembly.

24. ALL Acts of Assembly in Force in this State on the fifteenth Day of *May* last (and not hereby altered, or contrary to the Resolutions of Congress, or of the late House of Assembly of this State) shall so continue until altered or repealed by the Legislature of this State, unless where they are temporary, in which Case they shall expire at the Times respectively limited for their Duration.

25. THE Common Law of *England*, as well as so much of the Statute Law as have been heretofore adopted in Practice in this State, shall remain in force, unless they shall be altered by a future Law of the Legislature; such Parts only excepted as are repugnant to the Rights and Privileges contained in this Constitution and the Declaration of Rights, &c. agreed to by this Convention.

26. No Person hereafter imported into this State from *Africa* ought to be held in Slavery under any Pretence whatever, and no Negroe, Indian or Mulatto Slave ought to be brought into this State for Sale from any Part of the World.

27. THE first Election for the General Assembly of this State shall be held on the twenty-first Day of *October* next, at the Court Houses in the several Counties, in the Manner heretofore used in the Election of the Assembly, except as to the Choice of Inspectors and Assessors, where Assessors have not been chosen on the sixteenth Day of *September* Instant, which shall be made on the Morning of the Day of Election by the Electors, Inhabitants of the respective Hundreds in each County:—At which Time the Sheriffs and Coroners for the said Counties respectively are to be elected: And the present Sheriffs of the Counties of *New-Castle* and *Kent* may be re-chosen to that Office until the first Day of *October* in the Year of our Lord One Thousand Seven Hundred and Seventy-nine, and the present Sheriff for the County of *Suffex* may be re-chosen to that Office until the first Day of *October* in the Year of our Lord One Thousand Seven Hundred and Seventy-eight, provided the Freemen think proper to re-elect them at every general Election; and the present Sheriffs and Coroners respectively shall continue to exercise their Offices as heretofore until the Sheriffs and Coroners to be elected on the said twenty-first Day of *October* shall be commissioned and sworn into Office. The Members of the Legislative Council and Assembly shall meet for transacting the Business of the State on the twenty-eighth Day of *October* next, and continue in Office until the first Day of *October* which will be in the Year One Thousand Seven Hundred and Seventy-seven; on which Day, and on the first Day of *October* in each Year forever after the Legislative Council, Assembly, Sheriffs and Coroners, shall be chosen by Ballot in Manner directed by the several Laws of this State for regulating Elections of Members of Assembly and Sheriffs and Coroners; and the General Assembly shall meet on the twentieth Day of the same Month for the transacting the Business of the State; and if any of the said first and twentieth Days of *October* should be *Sunday*, then and in such Case the Elections shall be held and the General Assembly meet the next Day following.

28. To prevent any Violence or Force being used at the said Elections, no Persons shall come armed to any of them; and no Muster of the Militia shall be made on that Day, nor shall any Battalion or Company give in their Votes immediately succeeding each other, if any other Voter who offers to vote objects thereto; nor shall any Battalion or Company in the Pay of the Continent, or of this or any other State be suffered to remain at the Time and Place of holding the said Elections, nor within one Mile of the said

said Places respectively for twenty-four Hours before the opening said Elections, nor within twenty-four Hours after the same are closed, so as in any Manner to impede the freely and conveniently carrying on the said Election: Provided always, that every Elector may in a peaceable and orderly Manner give in his Vote on the said Day of Election.

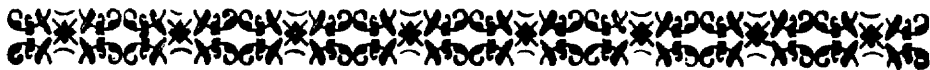
29. THERE shall be no Establishment of any one Religious Sect in this State in Preference to another; and no Clergyman or Preacher of the Gospel of any Denomination shall be capable of holding any Civil Office in this State, or of being a Member of either of the Branches of the Legislature while they continue in the Exercise of the Pastoral Function.

30. No Article of the Declaration of Rights and Fundamental Rules of this State, agreed to by this Convention, nor the first, second, fifth (except that Part thereof that relates to the Right of Suffrage) twenty-sixth and twenty-ninth Articles of this Constitution, ought ever to be violated or any Pretence whatever. No other Part of this Constitution shall be altered, changed or diminished, without the Consent of five Parts in seven of the Assembly, and seven Members of the Legislative Council.

GEORGE READ, President.

EXTRACT from the Journals,

Attest. JAMES BOOTH, Clk.



W I L M I N G T O N,

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