

CONSTITUTION
OF
SOUTH CAROLINA

1861



*George Washington Flowers
Memorial Collection*


DUKE UNIVERSITY LIBRARY

ESTABLISHED BY THE
FAMILY OF
COLONEL FLOWERS

not in
C. 22.11
or 11.11.11
?

~~A. S. Salley,~~
Columbia, S.C.

[From the binder] July 24, 1942.
56



Digitized by the Internet Archive
in 2010 with funding from
Duke University Libraries

THE CONSTITUTION

OF THE

STATE OF SOUTH CAROLINA,

APRIL 8, 1861.

We, the People of the State of South Carolina, in Convention assembled, do ordain and establish this Constitution, for the Government of the said State:

ARTICLE I.

SECTION 1. The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members, chosen by ballot, every second year, by the citizens of this State, qualified as in this Constitution is provided.

SECTION 3. The Election Districts in this State shall be as follows, to wit:

CHARLESTON, (including St. Phillip and St. Michael,)

CHRIST CHURCH,

ST. JOHN, BERKLEY,

ST. ANDREW,

ST. GEORGE, DORCHESTER,

ST. JAMES, GOOSE CREEK,

ST. THOMAS AND ST. DENNIS,

ST. PAUL,

ST. BARTHOLOMEW,

ST. JAMES, SANTEE,

ST. JOHN, COLLETON,

ST. STEPHEN,

ST. HELENA,

ST. LUKE,

PRINCE WILLIAM,

ST. PETER,

ALL SAINTS, (including its ancient boundaries,)

WINYAW, (not including any part of All Saints.)

KINGSTON, (not including any part of All Saints,)

WILLIAMSBURG,

MARRON,

MARLBOROUGH,
 CHESTERFIELD,
 DARLINGTON,
 YORK,
 CHESTER,
 FAIRFIELD,
 RICHLAND,
 LANCASTER,
 KERSLAU,
 SUMTER,
 CLARENDON,
 ABBEVILLE,
 EDGEFIELD,
 NEWBERRY,
 LAURENS,
 UNION,
 SPARTANBURG, (heretofore called Spartan,)
 GREENVILLE,
 ANDERSON,
 PICKENS,
 ST. MATTHEW,
 ORANGE,
 BARNWELL,
 LEXINGTON.

SECTION 4. The boundaries of the Election Districts shall remain as they have heretofore been established.

SECTION 5. The House of Representatives shall consist of one hundred and twenty-four Members, to be appointed among the several Election Districts of the State, according to the number of white inhabitants contained, and the amount of all taxes raised by the Legislature, whether direct or indirect, or of whatever species, paid in each, deducting therefrom all taxes paid on account of property held in any other District, and adding thereto all taxes elsewhere paid on account of property held in such District; an enumeration of the white inhabitants, for this purpose, was made in the year one thousand eight hundred and fifty-nine, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed; and Representatives shall be assigned to the different Districts, in the above-mentioned proportion, by Act of the Legislature, at the session immediately succeeding every enumeration.

SECTION 6. If the enumeration herein directed should not be made in the course of the year appointed for the purpose, it shall be the duty of the Government to have it effected as soon thereafter as shall be practicable.

SECTION 7. In assigning Representatives to the several Districts of this State, the Legislature shall allow one Representative for every sixty-second part of the whole number of white inhabitants in the State; and one Representative, also, for every sixty-second part of the whole taxes raised by the Legislature of the State. The Legislature shall further allow one Representative for such fractions of the sixty-second part of the white inhabitants of the State, and of the sixty-second part of the taxes raised by the Legislature of the State, as when added together, form a unit.

SECTION 8. In every apportionment of representation which shall take place after the first apportionment, the amount of taxes shall be estimated from the average of the ten preceding years.

SECTION 9. If, in the apportionment of Representatives, any Election

District shall appear not to be entitled, from its population and its taxes, to a Representative, such Election District shall nevertheless send one Representative; and if there should be still a deficiency of the number of Representatives required by section fifth, such deficiency shall be supplied by assigning Representatives to those Election Districts having the largest surplus fractions, whether those fractions consist of a combination of population and taxes, or of population, or of taxes separately, until the number of one hundred and twenty-four members be provided.

SECTION 10. No apportionment of Representatives shall be construed to take effect, in any manner, until the general election which shall succeed such apportionment.

SECTION 11. The Senate shall be composed of one member from each Election District, except the District formed by the Parishes of St. Philip and St. Michael, to which shall be allowed two Senators as heretofore.

SECTION 12. The Senators having been heretofore divided, by lot, into two classes, the seats of the Senators of the first class shall be vacated at the expiration of the second year after the Monday following a general election, and of the second class at the expiration of the fourth year; and the number of these classes shall be so proportioned that one-half of the whole number of Senators may, as nearly as possible, continue to be chosen thereafter every second year.

SECTION 13. Every free white man of the age of twenty-one years, pauper, and non-commissioned officers and private soldiers of the army of the Confederate States of America excepted, who hath been a citizen and resident in this State two years previous to the day of election, and who hath a freehold of fifty acres of land, or a town lot, of which he hath been legally seized and possessed at least six months before such election; or not having such freehold or town lot, hath been a resident in the Election District in which he offers to give his vote, six months before the said election, shall have a right to vote for a member, or members, to serve in either branch of the Legislature for the Election District in which he holds such property, or is so resident.

SECTION 14. The returning officer, or any other person present, entitled to vote, may require any person, who shall offer his vote at an election, to produce a certificate of his citizenship, and other qualification, entitling him to vote, or to swear, or affirm, that he is duly qualified to vote, agreeably to this Constitution.

SECTION 15. No person shall be eligible to a seat in the House of Representatives unless he is a free white man, of the age of twenty-one years, and hath been a citizen and resident in this State three years previous to his election. If a resident in the Election District, he shall not be eligible to a seat in the House of Representatives unless he be legally seized and possessed, in his own right, of a settled freehold estate of five hundred acres of land and ten negroes; or of a real estate of the value of one hundred and fifty pounds, sterling, clear of debt. If a non-resident, he shall be legally seized and possessed of a settled freehold estate therein of the value of five hundred pounds, sterling, clear of debt.

SECTION 16. No person shall be eligible to a seat in the Senate unless he is a free white man, of the age of thirty years, and hath been a citizen and resident in this State five years previous to his election. If a resident in the Election District, he shall not be eligible, unless he be legally seized and possessed, in his own right, of a settled freehold of the value of three hundred pounds, sterling, clear of debt. If a non-resident in the Election District, he shall not be eligible, unless he be legally seized and possessed.

in his own right, of a settled freehold estate, in the said District, of the value of one thousand pounds, sterling, clear of debt.

SECTION 17. Senators and Members of the House of Representatives shall be chosen at a general election on the Tuesday after the second Monday in October, in the year of our Lord one thousand eight hundred and sixty-two, and on the same day in every second year thereafter, in such manner and for such terms of office as are herein directed. They shall meet on the fourth Monday in November, annually, at Columbia, (which shall remain the seat of Government until otherwise determined by the concurrence of two-thirds of both branches of the whole representation), unless the casualties of war, or contagious disorders, should render it unsafe to meet there; in either of which cases, the Governor, or Commander-in-Chief, for the time being, may, by proclamation, appoint a more secure and convenient place of meeting. From the next general election shall, however, be excepted those Senators now in office, whose term of service will not expire in the year one thousand eight hundred and sixty-two.

SECTION 18. The terms of office of the Senators and Members of the House of Representatives shall begin on the Monday following a general election.

SECTION 19. Each House shall judge of the elections, returns and qualifications of its Members; and a majority of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members in such manner and under such penalties as may be provided by law.

SECTION 20. Each House shall choose, by ballot, its own officers, determine its rules of proceeding, punish its Members for disorderly behavior, and with the concurrence of two-thirds, expel a Member, but not a second time for the same cause.

SECTION 21. Each House may punish, by imprisonment during its sitting, any person not a Member, who shall be guilty of disrespect to the House by any disorderly or contemptuous behavior in its presence; or who, during the time of its sitting, shall threaten harm to body or estate of any Member for anything said or done in either House; or who shall assault any of them therefor, or who shall assault or arrest any witness, or other person, ordered to attend the House, in his going to or returning therefrom, or who shall rescue any person arrested by order of the House.

SECTION 22. The Members of both Houses shall be protected in their persons and estates during their attendance on, going to, and returning from the Legislature, and ten days previous to the sitting, and ten days after the adjournment of the Legislature. But these privileges shall not be extended so as to protect any Member who shall be charged with treason, felony or breach of the peace.

SECTION 23. Bills for raising a revenue shall originate in the House of Representatives, but may be altered, amended or rejected by the Senate; and all other bills may originate in either House, and may be amended, altered or rejected by the other.

SECTION 24. No Bill or Ordinance shall have the force of law until it shall have been read three times, and on three several days, in each House: has had the great seal affixed to it, and has been signed in the Senate House by the President of the Senate and Speaker of the House of Representatives.

SECTION 25. No money shall be drawn out of the Public Treasury, but by the legislative authority of the State.

SECTION 26. The Members of the Legislature, who shall assemble under this Constitution, shall be entitled to receive out of the Public Treasury,

for their expenses during their attendance on, going to and returning from the Legislature, the compensation now fixed by law; and the same may be increased or diminished by law, if circumstances shall require; but no alteration shall be made by any Legislature to take effect during the existence of the Legislature which shall make such alteration.

SECTION 27. Neither House, during their session, without the consent of the other, shall adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 28. No Bill or Ordinance, which shall have been rejected by either House, shall be brought in again during the sitting, without leave of the House, and notice of six days being previously given.

SECTION 29. No person shall be eligible to a seat in the Legislature whilst he holds any office of profit or trust under this State, the Confederate States of America, or either of them, or under any other power, except officers in the militia, army or navy of this State, Justices of the Peace, or Justices of the County Courts, while they receive no salaries; nor shall any contractor of the army or navy of this State, the Confederate States of America, or either of them, or the agents of such contractor, be eligible to a seat in either House. And if any Member shall accept or exercise any of the said disqualifying offices he shall vacate his seat.

SECTION 30. If any Election District shall neglect to choose a Member, or Members, on the day of election, or if any person chosen a Member of either House should refuse to qualify and take his seat, or should die, depart the State, or accept any disqualifying office, a writ of election shall be issued by the President of the Senate or Speaker of the House of Representatives, as the case may be, for the purpose of filling up the vacancy thereby occasioned, for the remainder of the term for which the person so refusing to qualify, dying, departing the State, or accepting a disqualifying office, was elected to serve.

SECTION 31. 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 function; therefore, no minister of the Gospel, or public preacher of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of Governor, Lieutenant-Governor, or to a seat in the Senate or House of Representatives.

ARTICLE II.

SECTION 1. The Executive authority of this State shall be vested in a Governor, to be chosen in the manner following: As soon as may be after the first meeting of the Senate and House of Representatives, and at every first meeting of the House of Representatives thereafter, when a majority of both Houses shall be present, the Senate and House of Representatives shall jointly, in the House of Representatives, choose by ballot a Governor, to continue for two years, and until a new election shall be made.

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

No person having served two years as Governor shall be re-eligible to that office till after the expiration of four years.

No person shall hold the office of Governor and any other office, or commission, civil or military, except in the militia, either in this State or under

the Confederate States of America, or either of them, or under any other power, at one and the same time.

SECTION 3. A Lieutenant-Governor shall be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.

SECTION 4. A Member of the Senate or House of Representatives being chosen, and acting as Governor or Lieutenant-Governor, shall vacate his seat, and another person shall be elected in his stead.

SECTION 5. In case of the impeachment of the Governor, or his removal from office, death, resignation, or removal from the State, the Lieutenant-Governor shall succeed to his office. And in case of the impeachment of the Lieutenant-Governor, or his removal from office, death, resignation, or removal from the State, the President of the Senate shall succeed to his office, until a nomination to those offices, respectively, shall be made by the Senate and House of Representatives, for the remainder of the time for which the officer so impeached, removed from office, dying, resigning, or removed from the State, was elected.

SECTION 6. The Governor shall be Commander-in-Chief of the army and navy of this State, and of the militia, except when they shall be called into the actual service of the Confederate States of America.

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

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

SECTION 9. He shall have power to prohibit the exportation of provisions, for any time not exceeding thirty days.

SECTION 10. He shall, at stated times, receive for his services a compensation, which shall be neither increased nor diminished, during the period for which he shall have been elected.

SECTION 11. All the officers in the Executive Department, when required by the Governor, shall give him information, in writing, upon any subject relating to the duties of their respective offices.

SECTION 12. The Governor shall, from time to time, give to the General Assembly information of the condition of the State, and recommend to their consideration such measures as he shall judge necessary or expedient.

SECTION 13. He may, on extraordinary occasions, convene the General Assembly, and in case of disagreement, between the two Houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the fourth Monday in the month of November then ensuing.

ARTICLE III.

SECTION 1. The judicial powers shall be vested in such Superior and Inferior Courts of Law and Equity as the Legislature shall from time to time direct and establish. The judges of each shall hold their commissions during good behavior; and Judges of the Superior Courts shall, at stated times, receive a compensation for their services, which shall neither be increased nor diminished during the continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust, under this State, the Confederate States of America, or any other power.

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

ARTICLE IV.

All persons who shall be elected or appointed to any office of profit or trust, before entering on the execution thereof, shall take (besides special oaths not repugnant to this Constitution, prescribed by the General Assembly,) the following oath: "I do solemnly swear (or affirm) that I will be faithful, and true allegiance bear to the State of South Carolina, so long as I may continue a citizen thereof; and that I am duly qualified, according to the Constitution of this State, to exercise the office to which I have been appointed; and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State, and that of the Confederate States of America. So help me God."

ARTICLE V.

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

SECTION 2. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be on oath, or affirmation, and no person shall be convicted without the concurrence of two-thirds of the Members present.

SECTION 3. The Governor, Lieutenant-Governor, and all civil officers shall be liable to impeachment for high crimes and misdemeanors, for any misbehavior in office, for corruption in procuring office, or for any act which shall degrade their official character. But judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment and punishment, according to law.

SECTION 4. All civil officers, whose authority is limited to a single Election District, a single Judicial District, or part of either, shall be appointed, hold their office, be removed from office, and in addition to liability to impeachment, may be punished for official misconduct in such manner as the Legislature, previous to their appointment, may provide.

SECTION 5. If any civil officer shall become disabled from discharging the duties of his office, by reason of any permanent disability, or of mental infirmity, his office may be declared to be vacant by joint resolution agreed to by two-thirds of the whole representation in each branch of the Legislature: *Provided*, That such resolution shall contain the grounds for the proposed removal, and, before it shall pass either House, a copy of it shall be served on the officer, and a hearing be allowed him.

ARTICLE VI.

SECTION 1. The Judges of the Superior Court, the Commissioners of the Treasury, Secretary of the State, and Surveyor-General, shall be elected by the joint ballot of both Houses, in the House of Representatives. The Commissioners of the Treasury, Secretary of the State, and Surveyor-General, shall hold their offices for four years, but shall not be eligible again

for four years after the expiration of the time for which they shall have been elected.

SECTION 2. All other officers shall be appointed as they hitherto have been, until otherwise directed by law; but a Sheriff shall not be again eligible for four years after the term for which he shall have been elected.

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

ARTICLE VII.

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

ARTICLE VIII.

SECTION 1. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this State, to all mankind: *Provided*, that the liberty of conscience hereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

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

ARTICLE IX.

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

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

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

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

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

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

SECTION 7. The rights of primogeniture shall not be re-established, and there shall not fail to be some legislative provision for the equitable distribution of the estates of intestates.

ARTICLE X.

SECTION 1. The business of the Treasury shall be in future conducted by

two Treasurers, one of whom shall hold his office and reside in Columbia; the other shall hold his office and reside in Charleston.

SECTION 2. The Secretary of State and the Surveyor-General shall hold their offices both in Columbia and Charleston. They shall reside at one place, and their deputies at the other.

SECTION 3. The Judges shall, at such times and places as shall be prescribed by Act of the Legislature of this State, meet and sit, for the purpose of hearing and determining all motions which may be made for new trials, and in arrest of judgment, and such points of law as may be submitted to them.

SECTION 4. The Governor shall always reside, during the sitting of the Legislature, at the place where their Session may be held; and at all other times wherever, in his opinion, the public good may require.

ARTICLE XI.

SECTION 1. No Convention of the People shall be called, unless by the concurrence of two-thirds of both branches of the whole Representation.

SECTION 2. No part of this Constitution shall be altered, unless a bill to alter the same shall have been read, on three several days, in the House of Representatives, and on three several days in the Senate, and agreed to at the second and third readings, by two-thirds of the whole Representation in each branch of the Legislature; neither shall any alteration take place until the bill so agreed to, be published three months previous to a new election for Members of the House of Representatives; and if the alteration proposed by the Legislature shall be agreed to, in their first Session, by two-thirds of the whole Representation, in each branch of the Legislature, after the same shall have been read on three several days in each House, then, and not otherwise, the same shall become a part of the Constitution.

Done in Convention at Charleston, in the State of South Carolina, the eighth day of April, in the year of our Lord one thousand eight hundred and sixty-one, and in the eighty-fifth year of the sovereignty of the State of South Carolina.

D. F. JAMISON, *President*.

Attest: B. F. ARTHUR, *Clerk*.



