

**Constitutions of the World  
from the late 18th Century  
to the Middle of the 19th Century**

**Verfassungen der Welt  
vom späten 18. Jahrhundert  
bis Mitte des 19. Jahrhunderts**

**Constitutions of the World  
from the late 18th Century  
to the Middle of the 19th Century**

Sources on the Rise  
of Modern Constitutionalism

Editor in Chief  
Horst Dippel

America: Volume 1

**Verfassungen der Welt  
vom späten 18. Jahrhundert  
bis Mitte des 19. Jahrhunderts**

Quellen zur Herausbildung  
des modernen Konstitutionalismus

Herausgegeben von  
Horst Dippel

Amerika: Band 1

K·G·Saur 2008

**Constitutional Documents  
of the United States of America  
1776–1860**

**Part VI:  
Rio Grande – Texas**

Edited by  
Horst Dippel

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der Vereinigten Staaten von Amerika  
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**Bibliographic information published by the Deutsche Nationalbibliothek**

The Deutsche Nationalbibliothek lists this publication  
in the Deutsche Nationalbibliografie; detailed bibliographic data  
are available in the internet at <http://dnb.d-nb.de>.

**Bibliografische Information der Deutschen Nationalbibliothek**

Die Deutsche Nationalbibliothek verzeichnet diese Publikation  
in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten  
sind im Internet über <http://dnb.d-nb.de> abrufbar.



Printed on acid-free paper / Gedruckt auf alterungsbeständigem Papier

© 2008 by K. G. Saur Verlag, München

Ein Imprint der Walter de Gruyter GmbH & Co. KG

Printed in Germany

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Technical Partner / Technischer Partner: Mathias Wündisch, Leipzig

Printed and Bound / Druck und Bindung: Strauss GmbH, Mörlenbach

978-3-598-35756-5

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# Acknowledgments

It has become one of my most appreciated responsibilities in thanking those who helped to get these volumes published to start with, again, gratefully acknowledging the help and assistance of Brandon Haynes of the Administrative Office of the Courts of the State of Kentucky. More than the usual way in which he, again, contributed to this volume in giving advice and providing literature otherwise hard to access did he first direct me to the Republic of the Rio Grande and explored avenues that may have led to the so far unpublished document. His efforts were finally crowned with success through the ingenious detective capacities of Dr. Tillmann Hein from Dallas, TX who succeeded in putting the puzzle together which eventually led all the way to Mexico City. My most sincere thanks for his untiring efforts, which includes also my gratitude to all others involved, including Susana Zavala in Mexico. Chuck Lesser of the South Carolina State Archives was an indispensable help concerning the documents of this state, while Darla Brock of the Tennessee State Archives, her husband Eddie Weeks of the Tennessee Legislative

Library, and Nick Wyman of the University of Tennessee Special Collections Library did their best to bring the Tennessee documents into shape. As extended as the state is the list of those who assisted in getting the constitutions of Texas published. Mike Widener, while still in Austin and before moving to Yale, merits mentioning as do John Anderson, Jonathan Pratter, Margaret L. Schlankey, Aryn Glacier, Roy E. Hinojosa, Leslie Prather-Forbis, and others of the University of Texas at Austin, the Texas State Archives, and the Texas State Law Library, respectively. To all of them, and to the numerous additional hands and minds within and outside the respective states I want to extend my most sincere thanks. Without them the volume would not have been possible, though any mistakes or errors it may contain are exclusively my own.

Horst Dippel

Note on electronic sources: all documents located on the Internet, which were used in the process of editing this volume, were accessed during September 2008.





# Ley orgánica de la República del Río Grande (1840)

## Dictamen que presentó la comision de la Junta combencional y aprobado el 26 del que finaliza por esta en casa de Blancas<sup>1</sup>

Honorable Asamblea

La comision nombrada para dictaminar sobre los medios que devan adoptarse para procurar seguridad y defensa de los Pueblos de la frontera del Norte de la Republica tiene el honor de presentar a cuerpo tan respetable el siguiente dictamen que por falta de tiempo y luces para tratar con toda perfeccion asunto de tanta importancia unicamente se contrahe a la sencilla esposicion del origen vicioso del actual Gobierno de Mejico, a la enumeracion de los males yá insufribles que ha causado como consecuencia precisa de su ilegitimidad, y el arbitro que en las presentes circunstancias de anarquia en que se halla la Nacion juzga bastante para remediarlos en la parte posible – Publico y notorio es que desde el malhadado año de 834 en que el Gral Santa Ana pr un acto el mas despótico y atentatorio contra la soberania de la nacion destruyó su representacion se ha pasado de sancionar y vitimar el principio "que los Pueblos son pa el Gobierno y no este para aquellos." Desde entonces todos himnos a los congresos de los Estados desentenderse de su sagrado deber de atender y remediar las necesidades de sus comitentes por que temieron correr igual ó peor suerte que la representacion nacional si por desgracia incurrian p<sup>r</sup> alguna de sus disposiciones en el desagrado del omnipotente q. acababa de aparecerles. Este paso sumamente deshonoroso para la Nacion y que la llenó de terror y espanto, pues que le anunciaba nada menos que la proxima perdida de su libertad, no fue el unico que tubo que dar el Gral Santa Anna p.<sup>a</sup> poder establecer por medio de sus armas (por que en aquella epoca el Exto era de él y nó de la Nacion) el Gobierno que mas le conbenia. Los Estados de Puebla y Zacatecas hicieron esfuerzos en seguida en favor de la moribunda libertad, mas estos fueron inutiles, pues a causa quizá de haber querido obrar aisladamente no tuvieron otros resultados que aumentar el terror y espanto difundidos ya en toda la Republica; poner en manos del despota los recursos con que contaban para defenderla dandole en esto mayor poder para destruirla, y la escandalosisima venta p.<sup>r</sup> no decir robo de las ricas minas del fresnillo. Con esto el Gral Santa Anna acabó de desarmar a la Nacion y dió tanto poder a sus armas que sin necesidad de que bolbieran a obrar fisicamente hizo que algunos Ayuntamientos sin facultades ningunas al efecto pidieron el cambio del Sistema. Estas funciones ilegitimas resividas p.<sup>r</sup> unas camaras que por sí y ante sí se declararon autorisadas para decretar el cambio, motivaron el celebre decreto de eterna maldicion para los Mejicanos, que derribó la forma de gobierno que libre y espontaneamente se havian dado el año de 24 y este es el origen espurio de ese monstruo de su llamado gobierno por antifraxis<sup>2</sup> que tantos males ha causado a

la nacion. Desde esa epoca de infausta memoria esta se halla inconstituida; los males se multiplican cada día, y crese el abandono en que se tiene a los Pueblos ¿Pero que podia hunicamente esperarse de un Gobierno que deve su existencia a la violencia, que se conserva por la misma y cuyos intereses son diametralmente opuestos a los de los Pueblos? Nada mas que males sobre males: Violencias sobre violencias: desgracias y mas desgracias y en suma la destrucción progresiva [...] <sup>3</sup> existe en la Republica por cuya comprovacion servirá la simple enumeracion de algunos de los que han pasado y sufridose en esta frontera. Como un gobierno ilegítimo todo lo teme y no se ocupa mas que de su conservacion el de Mexico comenzó p.<sup>f</sup> destruir las incompletas compañías presidiales unica defensa que tenian estos Estados contra las tribus salvajes que diariamente los hostilisan, pr que siendo estas compuestas de vecinos de la frontera que nunca han merecido confianza, temió que si permanecian con las armas en la mano tarde ó temprano las levantarían contra su ilegitimidad en union de los Pueblos. Por igual motivo los privó tambien del otro recurso de las milicias locales con que los agració la ley que los destruyó en la Republica dejandolos con esto enteramente inemes y á merced de los barbaros quienes varias veces han llegado hasta meterse a las plazas de las poblaciones. Hecho esto aun nó calmaron los temores del Gobierno y así fue que con pretexto de volver a la campaña de Tejas mandó y ha mantenido un Exto p.<sup>f</sup> mas de cuatro años en estos pequeñisimos pueblos que cuando menos se ha compuesto de dos mil hombres siendo su berdadero objeto tenerlos sojuzgados y vivir de ellos destruyendo los restos de fortunas que les havian quedado p.<sup>f</sup> de este modo arrancarle toda esperanza de poder reclamar el restablecimiento de un gobierno verdaderamente nacional. Con el mismo fin se les quitaron sus Ayuntamtos que fueron

substituidos con unos jueses de páz nombrados por un Prefecto ó Subprefecto que no tenia el menos conocimiento del Pueblo ni de sus vecinos y a los que se les negó aun la necesarísima facultad de poder disponer del vecindario p.<sup>a</sup> repeler a los salvajes que de continuo los tenian a la vista y se llebaban sus intereses a ciencia y pariencia de las llamadas guarniciones del Exto la que cuando se les pedia algun auxilio contestaban en tono a burla: que no havian benido p.<sup>a</sup> cuidar á estos rancheros sino p.<sup>a</sup> hacer la campaña a Tejas ¿Y que hicieron con respecto á esta tan deconstada campaña lo dirrá la comision en brebas palabras. Negado ya el auxilio como los barbaros que asolaban estos puntos, el Gral Filisola publicó un bando Sultánico en que imponia pena capital a todo el que pasara el rio brabo, y se retirara mas de dies leguas, imponiendo con esto a la mayor parte el barbaro precepto defender sus propiedades mas alla de las dies leguas designadas. Dado este paso se comenzaron a mandar partidos del Exto que fueran a cometer asesinatos y todo genero de depredaciones en la frontera de Tejas con ordenes de que echo el mal se vinieran violentamente dando con estos pretesto y excitando a los colonos y algunos malos Mejicanos que allá viven a venirse tras ellas y llebarse mansos bienes se encontraban, los que en razon del abandono en que los dejó el miserable bando, devian pertenecer al primero que los ocupaba y mas cuando con ellos juzgaban reintegrarse de los que el Exto les trajo cuando hizo su malhadada retirada. Todas estas disposiciones pusieron en manos de estas y de los barbaros los cuantiosos bienes que exivían del otro lado del Brabo y en que consistían las riquezas de estos Pueblos, con los que concluyen enteramente dando muerte que es lo mas sensible, asesinando a honrrados habitantes de estas poblaciones que arras-trados del deseo de defender su propiedad de que los havia despojado el Gral Filisola

se arrojaban a ser victimas de su barbaria y he aqui el resultado de la arrancada campaña de Tejas ¿Y con que miras causan tantos malos? Nó con otras ciertamente que con las de empobrecer y reducir a una estrañada miseria a todos los habitantes de la frontera, pues como ya se ha dicho de estos mas que de otros tenia el Gov.<sup>o</sup> de Mejico que levantaron la voz contra su ilegitimidad. Mas a pesar de tantos esfuerzos nó logró tan criminal objeto. Desoidas las justas peticiones que oportunamente se le hisieron la revolucion estalló en fin en estas Villas el día 2 de Noviem<sup>re</sup> de 838 en medio de un Ejercito de mas de 2000 hombres que las cubrian. La hist.<sup>a</sup> de esta es bien savida de todos y no hay p.<sup>a</sup> que referirla, bastando solo decir que aumentando cada día su poder y ensanchandose los limites de esta jurisdiccion ya se hace indispensable p.<sup>a</sup> darle mayor regularidad y firmeza al establecimiento de un Gobierno provisional ampliamente facultado para proveer a la seguridad y defensa de estos pueblos pronunciados, y que se pronunciaron para proporcionar recursos al Ejercito y p.<sup>a</sup> tomar todas medidas conducentes a las exigencias del Territorio. Este punto lo ha meditado detenidamente la comision y consultando a la brevedad de la accion que á este deve darse en las presentes circunstancias y a la mayor respetabilidad de sus disposiciones sujeta a la deliberación de la Honorable Asamblea los siguientes articulos.

ART. 1<sup>o</sup>. Los pueblos de la frontera del Norte no reconozan legitimidad alguna en el actual Gobierno de Mejico.

ART. 2<sup>o</sup>. Mientras una combencion nacional elegida libremente p.<sup>r</sup> los pueblos declara la forma de Gobierno que mas conbenga a la Republica, se establecera un Gobierno provicional en Estos Estados.

ART. 3<sup>o</sup>. Este Gobierno lo compondran un Presidente y cinco individuos propieta-

rios y tres suplentes que formarán su concejo elegidos por los actuales representantes de los Pueblos.

ART. 4<sup>o</sup>. Serán atribuciones del Gobierno

1<sup>a</sup> Defender el Territorio de cualquiera enemigo que lo ynada.

2<sup>a</sup> Proporcionar seguridad a las personas y propiedades de todos los havitantes tanto tiempo abandonados p.<sup>r</sup> los actuales Gobernadores de Mejico.

3<sup>a</sup> Crear y agenciar recursos dentro y fuera de la Republica garantizando la deuda Publica con los bienes y rentas de la Nacion.

4<sup>a</sup> Arreglar y mantener las fuerzas de mar y tierra y crear las mas que sean la [...]<sup>4</sup> p.<sup>a</sup> llenar la prim<sup>a</sup> y segunda de sus atribuciones.

5<sup>a</sup> Combocar p.<sup>a</sup> el 28 de Mayo del presente año, o antes si las circunstancias lo permiten una combencion de todos los Estados que se hallan libres de la oprecion en que actualmente se encuentran para que hagan la declaracion a que se contrahe el articulo 2<sup>o</sup>.<sup>5</sup> ART. 5<sup>o</sup>. El Presidente en los negocios de hacienda y en todos los demas que nó se hace meramente guvernnativo deberá presedir de acuerdo con el consejo.

ART. 6<sup>o</sup>. Los ciudadanos y autoridades de los Pueblos pronunciados y los Gefes oficiales y tropa de su ejercito presentará solemnemente el juramento de obediencia al Gobierno provisional bajo la formula siguiente. “¿Jurais a Dios y prometeis a los Pueblos obedecer y sostener con vuestras vidas y propiedades al Gobierno provisional establecido p.<sup>r</sup> la combencion particular de estos Estados, y todas las providencias que de él emanen? Responderá (sí juro) y se contestará “Si así lo hicieres Dios os conceda ver libre y felis a vuestra patria y sinó el y los hombres os castiguen.

ART. 7º. El Presidente de esta combencion recibirá el juramento del presidente del Gobierno y ante este lo prestarán los individuos del consejo: prometiendo todos cumplir y hacer cumplir las presentes disposiciones acordados por los Pueblos.

ART. 8º. El que se opusiere ó de cualquiera manera no auxiliare al Gobierno Provisional establecido, no podra alegar derecho alguno de propiedad.

ART. 9º. Cualquiera declaracion que por amargos de la fuerza del Gobierno de Mexico hayan en lo sucesivo los Pueblos que en plen y absoluta libertad hoy representados se tendrá por nula y de ningun valor ni efecto.

ART. 10º. Yguualmente se tendrá p<sup>r</sup> nulo y de ningun valor ni efecto, cualquiera acto del Gobierno provisional que tienda a destruir ó contrariar las bases fijadas en este decreto.

ART. 11º. Tanto el Gobierno como el consejo y sus secretarios serán personalmente responsables ante los Pueblos, del justo y exacto desempeño de los deberes que por este Decreto se les imponen.

Es copia de su original que con fecha 27 del que curso dirigió el Presidente de la junta combencional al Sr. Gral en Gefe de este Ejercito y que obra en la Sria de mi cargo. Villa de Mier. Enero 29 de 1840.

J.M. de Torres Srio.

Es copia. Cadereyta Febrero 5 de 1840.

[Firmado] Bruno Ordoñez Ayte del S. Gral

<sup>1</sup> Verified by the manuscript as preserved in the archives of the Ministry of Defense in Mexico City, D.F. According to a letter by George Fisher to the editor of the *Houston Morning Star* of March 24, 1840, published in the *Morning Star* on March 27, 1840, this Organic Law of the Republic of the Rio Grande had been printed, but so far no copy of this print version has been discovered. The Republic of the Rio Grande, compris-

ing a substantial part of southern Texas south of San Antonio, never actually came into being. A convention on the run, consisting of delegates from the Mexican states of Tamaulipas, Nuevo Leon and Coahuila, assembled on January 23, 1840 in a locality named Casa Blanca, between the Nueces River and the Rio Grande in what is now Texas, and resolved the above Organic Law. The new republic was supposed to include all Mexican territory between the Nueces and Medina rivers in the north and the Sierra Madre in the south, with Laredo as capital. It is not clear whether this project represented a violent movement for reform within a Mexican framework or with the final goal of total independence from Mexico, but Rio Grande's independence was neither declared at this stage nor ever officially recognized either by Texas or by any other state. Mexico squelched the rebellion on its northern border in a final battle on March 24, 1840. Cf. *Laredo, Antonio Zapata, & The Republic of the Rio Grande*, ed. by Stan Green, Laredo: Border Studies, 1990; Jerry Don Thompson, *Two Hundred Eighty-Three Days: The Republic of the Rio Grande*, Laredo: Nuevo Santander Museum, 1989; Josefina Zoraida Vázquez, "La supuesta república del Rio Grande", in: *Historia Mexicana*, XXXVI, 1 (1986), 49–80; Joseph Milton Nance, *After San Jacinto. The Texas-Mexican Frontier, 1836–1841*, Austin: University of Texas Press, 1963, esp. 252–254.

<sup>2</sup> Manuscript reading uncertain.

<sup>3</sup> Manuscript indecipherable.

<sup>4</sup> Manuscript indecipherable.

<sup>5</sup> Cf. Fisher's letter to the editor of the *Morning Star*:

"From the tenor of the Decree of the said Convention, held on the 23d of January last, or "Organic Law," I learn that it did not declare its unconditional independence from Mexico, but that, by

Article 1st. The Convention does not recognize any legitimate authority in the present government at Mexico, over the Mexican republic.

Article second, provides, that until the system of government, which is to be devised and determined on by a convention of chosen delegates of all the states of Mexico, be adopted, the people of the northern frontier of the Mexican republic will not cease to war against the present government at Mexico, and its supporters.

Article third, establishes a Provisional Government for the northern frontier, composed of a President, and a Council of five acting, and three supletory members.

Article fourth, authorizes the Provisional Government to raise an army and navy for carrying on the war against Mexico; and provides for the means of maintaining them.

One of the articles provides for the calling of a Convention of Delegates of all the states of the Mexican Republic, on the 28th of May next, or sooner, if possible to effect it.

These are the principal and most important articles of said decree."

The head of the French legation in Austin Jean Pierre Isidore Alphonse Dubois de Saligny, obviously having the same information at his disposal, wrote to the French Foreign Minister, Nicolas Jean-de-Dieu Soult, duc de Dalmatie, on March 10, 1840: "[...] les Etats de Coahuila, de Tamaulipas et de Nouveau-Léon viennent de se séparer du Mexique & de se déclarer Indépendans, sous le nom de République de Rio Grande. C'est dans une Convention tenue par les Fédéralistes, le 23 janvier, à Caza Blanca, petite ville située entre les rivières de las Nueces et de Rio Grande, que cette mesure a été adoptée. Voici les principaux articles du décret rendu par cette Convention et qui porte le titre de *Loi organique*:

Art. 1<sup>er</sup>. La Convention déclare qu'elle ne reconnaît au Gouvernement actuel de Mexico aucun droit légitime sur la République Mexicaine.

Art. 2. Jusqu'à ce que la forme du Gouvernement ait été arrêtée dans une Convention Générale, les habitans des Provinces du Nord sont résolus à combattre

le Gouvernement siégeant actuellement à Mexico.

Art. 3. Il est établi pour les Provinces du Nord un Gouvernement Provisoire composé d'un Président et d'un Conseil où siégeront cinq membres aux quels seront adjoints trois membres supplémentaires.

Art. 4. Le Gouvernement Provisoire est autorisé à lever des troupes de terre et de mer pour faire la Guerre au Gouvernement siégeant à Mexico.

Par un des autres articles une Convention Générale des délégués de tous les Etats de la République Mexicaine est convoquée pour le 23 [!] mai prochaine."

The originals of the dispatches of the French legation are kept in the Archives des Affaires étrangères in Paris, France (Archives Diplomatiques [France], Correspondence Politique Texas), of which copies are located in the Austin History Center of the Austin Public Library, Austin, TX. The quoted passage is not included in *The French Legation in Texas*, ed. by Nancy Nichols Barker, 2 vols., Austin: Texas State Historical Association, 1971-1973, I, 128-129.



# Constitution of South Carolina (1776)

## A Constitution, Or, Form of Government<sup>1</sup>

*South Carolina*<sup>2</sup>. In a Congress begun and holden at Charles-Town on Wednesday the first day<sup>3</sup> of November, One thousand seven hundred and seventy five, and continued by divers Adjournments to Tuesday the Twenty Sixth day of March, One thousand seven hundred and seventy six:

A *Constitution* or Form of Government agreed to and Resolved upon by the Representatives of South Carolina.

WHEREAS the British Parliament claiming of late years a Right, to bind the North American Colonies by Law in all Cases whatsoever, have Enacted statutes for raising a Revenue in those Colonies and disposing of such Revenue, as they thought proper without the consent and against the will of the Colonists. AND WHEREAS it appearing to them that (they not being represented in Parliament) such claim was altogether unconstitutional, and if admitted would at once, reduce them, from the rank of Freemen to a state of the most abject slavery, the said Colonies therefore severally remonstrated against the passing, and Petitioned for the repeal of those acts, but in vain. AND WHEREAS the said claim being persisted in, other unconstitutional and oppressive Statutes have been since enacted by which the powers of<sup>4</sup> Admiralty Courts in the Colonies are extended beyond their ancient limits, and Jurisdiction is given to such Courts in Cases similar to those, which in Great Britain are triable by Jury – Persons are liable to be sent to and tried in Great

Britain for an Offence created and made capital by one of those Statutes, though committed in the Colonies – The Harbour of Boston was blocked up – People indicted for Murder in the Massachusetts Bay, may at the will of a<sup>5</sup> Governor be sent for Trial, to any other Colony or even to Great Britain – The Chartered Constitution of Government in that Colony is materially altered – The English laws and a free Government, to which the Inhabitants of Quebec were intitled by the Kings Royal Proclamation, are abolished; and French Laws are restored: The Roman Catholic Religion (although before tolerated and freely exercised there) and an absolute Government are established in that province, and its limits, extended through a vast tract of Country, so as to border on the free Protestant English settlements, with design of using a whole People differing in Religious principles from the neighbouring Colonies, and subject to arbitrary Power, as fit Instruments to over-awe and subdue the Colonies. AND WHEREAS the Delegates of all the Colonies on this Continent from Nova-Scotia to Georgia assembled in a General Congress at Philadelphia in the most dutiful manner layed their Complaints at the foot of the Throne, and humbly implored their Sovereign that his Royal authority and interposition might be used, for their relief from the Grievances occasioned by those Statutes, and assured his Majesty that harmony between Great Britain and America, ardently desired by the latter would be thereby immediately restored, and that the Colonists confided in

the magnanimity and Justice of the King and Parliament for redress of the many other Grievances under which they laboured. AND WHEREAS these Complaints being wholly disregarded, Statutes still more cruel than those above-mentioned have been enacted Prohibiting the intercourse of the Colonies with each other, restricting their Trade and depriving many thousands of people of the means of Subsistence by restraining them from Fishing on the American Coast. AND WHEREAS large Fleets and Armies having been sent to America in order to enforce the execution of those Laws, and to compel an absolute and implicit submission to the Will of a corrupt and despotick administration, and, in Consequence thereof, Hostilities having been commenced in the Massachusetts Bay by the Troops under Command of General Gage whereby a number of Peaceable, helpless and unarmed People were wantonly robbed and murdered, and there being just reason to apprehend, that like Hostilities would be committed in all the other Colonies. The Colonists were therefore driven to the necessity of taking up Arms, to repel force by force, and to defend themselves and their properties against lawless Invasions and depredations – NEVERTHELESS the Delegates of the said Colonies assembled in another Congress at Philadelphia anxious to procure a Reconciliation with Great Britain upon just and constitutional principles, supplicated his Majesty to direct some mode by which the united applications of his faithful Colonists might be improved into a happy and permanent reconciliation; That in the mean time measures might be taken for preventing the further destruction of their lives, and that such Statutes as immediately distressed any of the Colonists might be repealed. AND WHEREAS instead of obtaining that Justice, to which the Colonists were and are of Right intitled, the unnatural Civil War, into which they were thus

precipitated and are involved, hath been prosecuted with unremitted violence, and the Governors and others bearing the Royal Commission in the Colonies, having broken the most solemn promises and engagements and violated every obligation of Honour, Justice and Humanity; have caused the persons of divers good People to be seized and imprisoned, and their properties to be forceably taken and detained, or destroyed, without any crime or forfeiture – excited Domestick Insurrections – proclaimed Freedom to Servants and Slaves – enticed or stolen them from, and Armed them against their Masters – instigated and encouraged the Indian Nations to War against the Colonies – dispensed with the Law of the Land, and substituted the Law-Martial in its stead – Killed many of the Colonists – burned several Towns and threatened to burn the rest And daily endeavour by a Conduct which has sullied the British Arms, and would disgrace even Savage Nations, to effect the ruin and destruction of the Colonies. AND WHEREAS a Statute hath been lately passed whereby under pretence that the said Colonies are in open Rebellion, all Trade and Commerce whatsoever with them is prohibited – Vessels belonging to their Inhabitants trading in, to, or from the said Colonies with the Cargoes and Effects on-board such Vessels are made lawful prize, and the Masters and Crews of such Vessels are subjected by force to act onboard the Kings Ships against their Country and dearest friends – and all Seizures and detention or destruction of the persons and properties of the Colonists which have at any time been made or committed for withstanding or suppressing the said pretended Rebellion, and which shall be made in pursuance of the said act, or for the service of the Public are justified, and persons suing for damages, in such cases are on failing in their Suits subjected to payment of very heavy expences. AND WHEREAS large rein-



forcements of Troops and Ships have been ordered and are daily expected in America for carrying on War against each of the United Colonies by the most vigorous exertions. – AND WHEREAS in Consequence of a Plan recommended by the Governors, and which seems to have been concerted between them and their Ministerial Masters, to withdraw the usual Officers and thereby loosen the Bands of Government and create Anarchy and confusion in the Colonies. – Lord William Campbell late Governor on the fifteenth day of September last dissolved the General Assembly of this Colony, and no other hath been since<sup>6</sup> called, although by Law the sitting and holding of General Assemblies cannot be intermitted above six Months – And having used his utmost Efforts to destroy the lives, liberties and properties of the good People here whom by the duty of his station he was bound to protect, withdrew himself from the Colony and carried off the Great Seal and the Royal Instructions to Governors. AND WHEREAS the Judges of the<sup>7</sup> Courts of Law here, have refused to exercise their respective functions, so that it is become indispensably necessary that during the present situation of American Affairs and until an accommodation of the unhappy differences between Great Britain and America can be obtained, (An event which though traduced and treated as Rebels we still earnestly desire), some mode should be established by common Consent, and for the good of the People – The Origin and end of all Government<sup>8</sup> – for regulating the Internal Polity of this Colony. – *The Congress* being vested with Powers competent for the purpose, and having fully deliberated touching the premises – *Do therefore Resolve* –

1<sup>st</sup>. That this Congress being a full and free Representation of the People of this Colony, shall henceforth be deemed and called the General Assembly of South Car-

olina, and as such shall continue until the twenty first day of October next and no longer.

2<sup>d</sup>. That the General Assembly shall out of their own body, elect by Ballot, a legislative Council to consist of thirteen Members (seven of whom shall be a Quorum) and to continue for the same time as the General Assembly.

3<sup>d</sup>. That the General Assembly and the said legislative Council shall jointly choose by Ballot from among themselves, or from the People at large, a President and Commander in Chief, and a vice President of the Colony.

4<sup>th</sup>. That a Member of the General Assembly, being chosen and acting as President and Commander in Chief or vice President, or one of the legislative Council, shall vacate his Seat in the General Assembly, and another Person shall be elected in his room; And if, one of the legislative Council is chosen President and Commander in Chief or vice President he shall lose his Seat, and another Person shall be elected in his stead.

5<sup>th</sup>. That there be a Privy Council, whereof the Vice President of the Colony shall of course be a Member and President of the Privy Council, and that six other Members be chosen by Ballot, Three by the General Assembly, and three by the legislative Council: PROVIDED ALWAYS, that no Officer in<sup>9</sup> the Army or Navy in the service of the Continent or of this Colony shall be eligible. And a Member of the General Assembly or of the legislative Council being chosen of the Privy Council, shall not thereby lose his Seat in the General Assembly, or<sup>10</sup> legislative Council, unless he be elected Vice President of the Colony, in which case he shall, and another Person shall be chosen in his stead – The Privy Council (of which four to be a Quorum)

to advise the President and Commander in Chief when required, but he shall not be bound, to consult them, unless in cases aftermentioned.

6<sup>th</sup>. That the Qualifications of the President and Commander in Chief and Vice President of the Colony, and Members of the legislative and Privy Council, shall be the same as of Members of<sup>11</sup> General Assembly, and on being elected they shall take an Oath of Qualification in the General Assembly.

7<sup>th</sup>. That the legislative Authority be vested in the President and Commander in Chief, the General Assembly and legislative Council. All Money Bills for the support of Government shall originate in the General Assembly and shall not be altered or amended by the legislative Council, but may be rejected by them. All other Bills and Ordinances may take rise in the General Assembly or legislative Council, and be altered, amended or rejected by either. Bills having passed the General Assembly and legislative Council, may be assented to or rejected by the President and Commander in Chief: Having received his Assent, they shall have all the force and validity of an Act of General Assembly of this Colony. And the General Assembly and legislative Council respectively shall enjoy all other priviledges which have at any time been claimed or exercised by the Commons House of Assembly, but the legislative Council shall have no power of expelling their own Members.

8<sup>th</sup>. That the General Assembly and legislative Council may adjourn themselves respectively, and the President and Commander in Chief shall have no power to adjourn prorogue or dissolve them – but may, if necessary call them before the time to which they shall stand adjourned. And where a Bill has been rejected, it may, on

a Meeting after an Adjournment for<sup>12</sup> not less than three days of the General Assembly and legislative Council be brought in again.

9<sup>th</sup>. That the General Assembly and the<sup>13</sup> legislative Council shall each chuse their respective Speakers and their own Officers without controul.

10<sup>th</sup>. That if a<sup>14</sup> Member of the General Assembly or of the legislative Council shall accept any place of emolument or any Commission except in the Militia, he shall vacate his Seat, and there shall thereupon be a new Election, but he shall not be disqualified from serving upon being re-elected.

11<sup>th</sup>. That on the last Monday in October next and the day following, and on the same days of every second Year thereafter, Members of the General Assembly shall be chosen, to meet on the first Monday in December then next, and continue for two Years from the said last Monday in October. The General Assembly to consist of the same number of Members as this Congress does, each Parish and District having the same Representation as at present (*viz*<sup>1</sup>.) The Parishes<sup>15</sup> of St. Philip and St. Michael, Charles-Town, Thirty Members; The Parish of Christ Church, Six Members; The Parish of St. John in Berkley County, Six Members; The Parish of St. Andrew, Six Members; The Parish of St. George Dorchester, Six Members – The Parish of St. James Goose Creek, Six Members – The Parish of St. Thomas and St. Dennis, Six Members – The Parish of St. Paul, Six Members – The Parish of St. Bartholomew, Six Members. – The Parish of St. Helena, Six Members. – The Parish of St. James Santee, Six Members – The Parish of Prince George, Winshaw<sup>16</sup>, Six Members. – The Parish of Prince Frederick, Six Members – The Parish of St. John in Colleton County, Six Members – The Parish of St. Peter, Six

Members – The Parish of Prince William, Six Members – The Parish of St. Stephen, Six Members – The District to the Eastward of Waterre<sup>17</sup> River, Ten Members – The District of Ninety Six, Ten Members – The District of Saxe-Gotha, Six Members – The District between Broad and Saludy<sup>18</sup> Rivers, in three Divisions (viz<sup>t</sup>.) The lower District, Four Members – The Little River District Four Members – The upper or Spartan District, Four Members – The District between Broad and Catawba Rivers Ten Members – The District called the new acquisition, Ten Members – The Parish of St. Matthew, Six Members – The Parish of St. David, Six Members – The District between Savannah River and the North fork of Edisto, Six Members. And the Election of the said Members shall be conducted as near as may be agreeable to the directions of the Election Act, and where there are no Churches or Church Wardens in a District or Parish, the General Assembly at some convenient time before their expiration, shall appoint places of Election, and Persons to receive votes and make returns. The Qualification<sup>19</sup> of Electors shall be the same as required by Law, – but Persons, having property which according to the rate of the last preceeding Tax, is taxable at the sums mentioned in the Election Act, shall be intitled to vote, though it was not actually taxed, having the other Qualifications mentioned in thact [sic!] act; Electors shall take an Oath of Qualification, if required by the returning Officer – The Qualification of the Elected to be the same as mentioned in the Election Act, and construed to mean clear of Debt.

12<sup>th</sup>. That if any Parish or District neglects or refuses to elect Members, or, if the Members chosen, do not meet in General Assembly, those who do meet shall have the powers of a<sup>20</sup> General Assembly – not less than forty nine Members shall make a

House to do business, but the Speaker or any seven Members may adjourn from day to day.

13<sup>th</sup>. That, as soon as may be, after the first meeting of the General Assembly, a<sup>21</sup> President and Commander in Chief, a Vice President of the Colony and Privy Council, shall be chosen in manner and for the Time above mentioned, and till such Choice shall<sup>22</sup> be made, the former President,<sup>23</sup> Commander in Chief and Vice President of the Colony, and Privy Council shall continue to act as such.

14<sup>th</sup>. That in Case of the Death of the President and Commander in Chief or his absence from the Colony, the Vice President of the Colony shall succeed to his Office, and the Privy Council shall choose out of their own Body a Vice President of the Colony. And, in Case of the death of the Vice President of the Colony or his absence from the Colony, one of the Privy Council (to be chosen by themselves) shall succeed to his Office, until a nomination to those Offices respectively by the General Assembly and legislative Council for the remainder of the Time, for which the Officer so dying or being absent was appointed.

15<sup>th</sup>. That the Delegates of this Colony, in the Continental Congress be chosen by the General Assembly and legislative Council jointly by Ballot in the General Assembly.

16<sup>th</sup>. That the Vice President of the Colony and the Privy Council or the Vice President and a majority of the Privy Council for the time being shall exercise the powers of a Court of Chancery, and there shall be an Ordinary, who shall exercise the Powers heretofore exercised by that Officer in this Colony.

17<sup>th</sup>. That the Jurisdiction of the Court of Admiralty be confined to Maritime Causes.

18<sup>th</sup>. That all suits and Process, depending in any Courts<sup>24</sup> of Law or Equity may if either party shall be so inclined be proceeded in and continued to a final ending, without being obliged to commence *de novo* – And the Judges of the Courts of Law shall cause Jury-Lists to be made and Juries to be summoned, as near as may be according to the directions of the Acts of the General Assembly in such cases Provided.

19<sup>th</sup>. That Justices of the Peace shall be nominated by the General Assembly and Commissioned by the President and Commander in Chief during pleasure: They shall not be entitled to fees except on prosecutions for felony, and not acting in the Magistracy they shall not be entitled to the privileges allowed to them by law.

20<sup>th</sup>. That all other Judicial Officers shall be chosen by Ballot jointly by the General Assembly and legislative Council, and except the Judges of the<sup>25</sup> Court of Chancery, Commissioned by the President and Commander in Chief during good behaviour, but shall be removed, on Address of the General Assembly and legislative Council.

21<sup>st</sup>. That Sheriffs<sup>26</sup>, qualified as by law directed shall be chosen in like manner by the General Assembly and legislative Council, and Commissioned by the President and Commander in Chief for two Years only.

22<sup>d</sup>. That the<sup>27</sup> Commissioners of the Treasury – the Secretary of the Colony – Register<sup>28</sup> of Mesne Conveyances – Attorney General and Powder Receiver, be chosen by the General Assembly and legislative Council Jointly by Ballot and Commissioned by the President and Commander in Chief during good behaviour, but shall be removed on address of the General Assembly and legislative Council.

23<sup>d</sup>. That all Field Officers in the Army and all Captains in the Navy, shall be by

the General Assembly and legislative Council chosen jointly by Ballot, and Commissioned by the President and Commander in Chief, and that all other Officers in the Army or<sup>29</sup> Navy shall be Commissioned by the President and Commander in Chief.

24<sup>th</sup>. That in Case of Vacancy in any of the Offices above directed to be filled by the General Assembly and legislative Council, the President and Commander in Chief with the advice and Consent of the Privy Council, may appoint others in their stead, until there shall be an election by the General Assembly and legislative Council to fill those<sup>30</sup> vacancies respectively.

25<sup>th</sup>. That the President and Commander in Chief with the Advice and Consent of the Privy Council may appoint during pleasure, until otherwise directed by Resolution of the General Assembly and legislative Council all other necessary Officers, except such as are by Law directed to be otherwise chosen.

26<sup>th</sup>. That the President and Commander in Chief shall have no Power to make War or Peace, or enter into any final Treaty without the consent of the General Assembly and legislative Council.

27<sup>th</sup>. That if any Parish or District shall neglect to elect a Member or Members on the day of Election, or in Case any Person chosen a Member of the General Assembly shall refuse to qualify and take his Seat as such, or die or depart the Colony, the said General Assembly shall appoint proper days for electing a Member or Members of the said General Assembly in such Cases respectively – And on the death of a Member of the legislative or Privy Council, another Member shall be chosen in his room in manner abovementioned for the election of Members of the Legislative and Privy Council respectively.

28<sup>th</sup>. That the Resolutions of the Continental Congress, now of force in this Colony, shall so continue until altered or revoked by them.

29<sup>th</sup>. That the Resolutions of this or any former Congress of this Colony, and all Laws now of force here (and not hereby altered) shall so continue until altered or repealed by the legislature of this Colony, unless where they are temporary, in which case, they shall expire at the times respectively limited for their Duration.

30<sup>th</sup>. That the executive Authority be vested in the President and Commander in Chief, limited and restrained as aforesaid.

31<sup>st</sup>. That the President and Commander in Chief, Vice President<sup>31</sup> of the Colony and Privy Council respectively, shall have the same Personal Priviledges as are allowed by act of Assembly to the Governor, Lieutenant Governor and Privy Council.

32<sup>d</sup>. That all Persons now in Office shall hold their Commissions until there shall be a new appointment in manner above directed, at which time all Commissions not derived from Authority of the Congress of this Colony, shall cease and be void.

33<sup>d</sup>. That all Persons who shall be chosen and appointed to any Office or to any place of trust, before entering upon the execution of Office, shall take the following Oath.

*I A. B. do Swear that I will to the utmost of my Power, support maintain and defend the Constitution of South Carolina as established by Congress on the twenty-sixth day of March One thousand seven hundred and seventy six, until an accommodation of the differences between Great Britain and America shall take place, or I shall be released from this Oath by the legislative authority of the said Colony. So help me God.*

– And all such Persons shall also take an Oath of Office.

34<sup>th</sup>. That the following yearly Salaries be allowed to the Public Officers, under-mentioned.

The President and Commander in Chief Nine thousand Pounds – The Chief Justice and the<sup>32</sup> Assistant Judges the Salaries respectively, as by act of Assembly established – The Attorney General Two thousand one hundred<sup>33</sup> Pounds in lieu of all charges against the Public for fees upon Criminal P[rosecutions – The]<sup>34</sup> Ordinary One thousand Pounds – The three Commissioners of the Treasury Two thousand Pounds each; and all other Public Officers sh[all have the same] Salaries as are allowed such Officers respectively by Act of Assembly.

By Order of the Cong[ress.] March [26<sup>35</sup>, 1776.]

W<sup>m</sup>. H<sup>y</sup>. DRAYTON, *Pre[sident.]*

Attested Pet<sup>r</sup>. TIMOTHY, *Secretary.*

<sup>1</sup> Verified by *South Carolina. In a Congress, Begun and holden at Charles-Town [...]* A Constitution, Or, Form of Government, [Charles-Town: Peter Timothy, 1776], 16 p., and corrected according to the original manuscript as preserved in the South Carolina Department of Archives and History. In addition to the 16-page print Timothy also published *South Carolina. In a Congress, Begun and holden at Charles-Town [...]* A Constitution, or Form of Government, [Charles-Town: Peter Timothy, 1776], 8 p. (Evans 15092), which, but for one exception, is identical with the 16-page print. Checked also against the version as published in *The Statutes at Large of South Carolina*; ed., under Authority of the Legislature, by Thomas Cooper, I, Columbia, S.C.: Printed by A. S. Johnston, 1836, 128–134, and as in *Basic Documents of South Carolina History: The Constitution of 1776*, ed. by J. H. Easterby, Columbia, S.C.: Published by the Historical Commission of South Carolina, [1949], 5 p. Spelling, capitalization, and punctuation follow the handwritten original. Italics are used to represent emphasized text in the manuscript, as well for non-English legal terms. The constitution, the first to style itself so, was not submitted to the

people and went into effect on March 26, 1776. Two years later, it was replaced by the second constitution of 1778 (q.v.).

<sup>2</sup> In *Statutes at Large*, I, 128, “1776” added; in *Basic Documents*, ed. by Easterby, [1], last two words missing.

<sup>3</sup> In *Statutes at Large*, I, 128, word missing.

<sup>4</sup> In Timothy print (16 p.), 2, “of the”.

<sup>5</sup> Ibid., “the”.

<sup>6</sup> Ibid., “since been”.

<sup>7</sup> In *Statutes at Large*, I, 130, and in *Basic Document*, ed. by Easterby, [2], word missing.

<sup>8</sup> In *Statutes at Large*, I, 130, “governments”.

<sup>9</sup> In Timothy print (16 p.), 7, “of”.

<sup>10</sup> In *Statutes at Large*, I, 131, “or in the”.

<sup>11</sup> Ibid., and in *Basic Documents*, ed. by Easterby, [3], “of the”.

<sup>12</sup> In *Statutes at Large*, I, 131, and in *Basic Documents*, ed. by Easterby, [3], “of”.

<sup>13</sup> In *Statutes at Large*, I, 131, and in *Basic Documents*, ed. by Easterby, [3], word missing.

<sup>14</sup> In Timothy print (16 p.), 9, “any”.

<sup>15</sup> In *Statutes at Large*, I, 131, “parish”.

<sup>16</sup> In Timothy print (16 p.), 10, “Winyah”. In the 8 pages print, 5, as in manuscript “Winyaw”.

<sup>17</sup> In Timothy print (16 p.), 10, in *Statutes at Large*, I, 132, and in *Basic Documents*, ed. by Easterby, [3],

“Wateree”.

<sup>18</sup> In *Statutes at Large*, I, 132, “Saluda”.

<sup>19</sup> Ibid., “qualifications”.

<sup>20</sup> In Timothy print (16 p.), 11, “the”.

<sup>21</sup> Ibid., “the”.

<sup>22</sup> In *Statutes at Large*, I, 132, and in *Basic Documents*, ed. by Easterby, [4], word missing.

<sup>23</sup> In Timothy print (16 p.), 11, and in *Statutes at Large*, I, 132, “President and”.

<sup>24</sup> In *Statutes at Large*, I, 133, “court”.

<sup>25</sup> In *Basic Documents*, ed. by Easterby, [4], word missing.

<sup>26</sup> In Timothy print (16 p.), 13, “That the Sheriffs”.

<sup>27</sup> Ibid., word missing.

<sup>28</sup> Ibid., “the Register”.

<sup>29</sup> Ibid., “and”.

<sup>30</sup> In *Statutes at Large*, I, 133, “their”.

<sup>31</sup> Ibid., 134, “the Vice President”.

<sup>32</sup> In *Basic Documents*, ed. by Easterby, [5], word missing.

<sup>33</sup> In Timothy print (16 p.), 16, “two thousand and one hundred”.

<sup>34</sup> Here and afterwards text supplied for textual losses due to mutilation of the manuscript.

<sup>35</sup> In Timothy print (16 p.), 16, “26”; in *Statutes at Large*, I, 134, and in *Basic Documents*, ed. by Easterby, [5], “26th”.

# Constitution of South Carolina (1778)

## An Act for Establishing the Constitution of the State of South-Carolina<sup>1</sup>

South Carolina. At a General Assembly begun and holden at Charlestown on Monday the fifth day of January in the year of our Lord one thousand seven hundred and seventy eight and from thence continued by divers adjournments to the nineteenth day of March in the year of our Lord one thousand seven hundred and seventy eight.

An ACT for establishing the CONSTITUTION of the State of SOUTH CAROLINA

WHEREAS the constitution or form of Government agreed to and Resolved upon by the free-men of this Country met in Congress the twenty sixth day of March one thousand seven hundred and seventy six was temporary only, and suited to the situation of their Public affairs at that period looking forward to an accommodation with Great Britain an event then desired AND WHEREAS the United Colonies of America have been since constituted Independent States and the political connexion heretofore subsisting between them and Great Britain entirely dissolved by the declaration of the Honourable the Continental Congress dated the fourth day of July one thousand seven hundred and seventy six for the many great and weighty reasons therein particularly set forth – It therefore becomes absolutely necessary to frame a constitution suitable to that great event: BE IT THEREFORE CONSTITUTED and ENACTED by His Excellency Rawlins Lowndes Esquire President and Commander in Chief in and over the State of South Carolina, by the Hon-

ourable the Legislative Council and General Assembly and by the authority of the same THAT the following articles agreed upon by the free-men of this State now met in General Assembly be deemed and held the CONSTITUTION and form of Government of the said State unless altered by the Legislative authority thereof: which constitution or form of Government shall immediately take place and be of force from the passing of this act, excepting such parts as are hereafter mentioned and specified.

ART.<sup>2</sup> I. THAT the stile of this country be hereafter the State of SOUTH CAROLINA.

ART. II. THAT the Legislative authority be vested in a General Assembly to consist of two distinct bodies a Senate and House of Representatives but that the Legislature of this State as established by the Constitution or form of Government passed the twenty sixth of March one thousand seven hundred and seventy six shall continue and be in full force until the twenty ninth day of November next ensuing.

ART. III. THAT as soon as may be after the first meeting of the Senate and House of Representatives and at every first meeting of the Senate and House of Representatives thereafter to be elected by virtue of this Constitution, they shall jointly in the House of Representatives choose by Ballot from among themselves or from the People at large a Governor and Commander in Chief, a Lieutenant Governor both to continue for

two years, and a Privy Council, all of the Protestant religion and till such choice shall be made the former President or Governor and Commander in Chief and vice president or Lieutenant Governor as the case may be and privy council shall continue to act as such.

ART. IV. THAT a member of the Senate or House of Representatives being chosen and acting as Governor and Commander in Chief or Lieutenant Governor, shall vacate his Seat and another person shall be elected in his room.

ART. V. THAT every person who shall be elected Governor and Commander in Chief of the State or Lieutenant Governor or a member of the privy council shall be qualified as followeth (that is to say) The Governor and Lieutenant Governor shall have been residents in this State for ten Years and the members of the Privy Council five Years preceding their said Election and shall have in this State a settled plantation or free hold in their and each of their own right of the value of at least Ten thousand Pounds currency clear of debt and on being elected they shall respectively take an oath of qualification in the House of Representatives.

ART. VI. THAT no future Governor and Commander in Chief, who shall serve for two years shall be eligible to serve in the said Office after the expiration of the said term until the full end and term of four years.

ART. VII. THAT no person in this State shall hold the office of Governor thereof or Lieutenant Governor and any other Office or Commission civil or military (except in the militia) either in this or any other State or under the authority of the Continental Congress at one and the same time.

ART. VIII. THAT in case of the impeachment of the Governor and Commander in

Chief or his removal from Office, death, resignation or absence from the State the Lieutenant Governor shall succeed to his Office and the Privy Council shall choose out of their own body a Lieutenant Governor of the State. AND in case of the impeachment of the Lieutenant Governor or his removal from Office, death resignation or absence from the State one of the Privy Council to be chosen by themselves shall succeed to his Office until a nomination to those Offices respectively by the Senate and House of Representatives for the remainder of the time for which the Officer so impeached, removed from Office, dying, resigning or being absent was appointed.

ART. IX. THAT the Privy Council shall consist of the Lieutenant Governor for the time being and eight other members five of whom shall be a quorum to be chosen as before directed four to serve for two Years and four for one Year and at the Expiration of one Year four others shall be chosen in the room of the last four to serve for two Years and all future Members of the Privy Council shall thenceforward be elected to serve for two years whereby there will be a new Election every year for half of the privy Council and a constant rotation established but no member of the Privy Council who shall serve for two Years shall be eligible to serve therein after the expiration of the said term, until the full end and term of four Years, PROVIDED ALWAYS that no Officer of the Army or Navy in the service of the Continent or this State nor Judge of any of the Courts of Law shall be eligible; nor shall the father, son or brother to the Governor for the time being be elected in the privy council during his administration – a member of the Senate or House of Representatives being chosen of the Privy Council shall not thereby lose his Seat in the Senate or House of Representatives unless he be elected Lieutenant Governor in which



case he shall and another Person shall be chosen in his stead. The Privy Council is to advise the Governor and Commander in Chief when required, but he shall not be bound to consult them unless directed by Law – If a member of the Privy Council shall die or depart this State during the recess of the General Assembly – The Privy Council shall choose another to act in his room until a nomination by the Senate and House of Representatives shall take place. The Clerk of the Privy Council shall keep a regular Journal of all their proceedings in which shall be entered the yea's and nay's on every question and the opinion with the reasons at large of any member who desires it; which Journal shall be laid before the Legislature when required by either House.

ART. X. THAT in case of the absence from the seat of Government or sickness of the Governor and the Lieutenant Governor any one of the Privy Council may be empowered by the Governor under his hand and Seal to set in his room but such appointment shall not vacate his Seat in the Senate, House of Representatives or Privy Council.

ART. XI. THAT the Executive authority be vested in the Governor and Commander in Chief in manner herein mentioned.

ART. XII. THAT each Parish and District throughout this State shall on the last Monday in November next and the day following and on the same days of every second year thereafter elect by Ballot one Member of the Senate (except the District of Saint Philip and Saint Michael's Parishes Charles Town) which shall elect two Members and except also the District between broad and Saludy Rivers in three divisions (viz<sup>t</sup>.) the lower District, little river District and upper or Spartan District, each of which said Divisions shall elect one Member and except the Parishes of Saint Matthew and Orange, which shall elect one Member, AND

also except the Parishes of Prince George and All- Saints which shall elect one Member. AND the election of Senators for such Parishes respectively, shall, until otherwise altered by the Legislature be at the Parish of Prince George for the said Parish, and the Parish of All- Saints, and at the Parish of St. Matthew for that Parish and the Parish of Orange; to meet on the first Monday in January then next at the Seat of Government unless the casualties of war or contagious Disorders should render it unsafe to meet there in which case the Governor and Commander in Chief for the time being way by Proclamation with the advice and consent of the Privy Council appoint a more secure and convenient place of meeting and to continue for two Years from the said last Monday in November and that no person shall be eligible to a Seat in the said Senate unless he be of the Protestant religion and hath attained the age of thirty Years and hath been a resident in this State at least five Years, not less than thirteen Members shall be a quorum to do business but the President or any three members may adjourn from day to day – No person who resides in the Parish or District for which he is elected shall take his Seat in the Senate unless he possesses a settled Estate and freehold in his own right in the said Parish or District of the value of two thousand Pounds Currency at least clear of debt; and no Non-resident shall be eligible to a Seat in the said Senate unless he is owner of a settled Estate and free-hold in his own right in the Parish or District where he is Elected of the value of seven thousand Pounds Currency at least also clear of debt.

ART. XIII. THAT on the last Monday in November next and the day following and on the same days of every second year thereafter, Members of the House of Representatives shall be chosen to meet on the first Monday in January then next at the

Seat of Government unless the casualties of war or Contagious disorders should render it unsafe to meet there in which case the Governor and Commander in Chief for the time being may by Proclamation with the advice and consent of the Privy Council appoint a more secure and convenient place of meeting and to continue for two Years from the said last Monday in November – Each Parish and District within this State shall send members to the General Assembly in the following proportions (that is to say)

The Parish of Saint Philip and Saint Michael Charlestown Thirty members,

The Parish of Christ Church Six members,

The Parish of Saint John's in Berkley County Six Members,

The Parish of Saint Andrew six Members

The Parish of Saint George Dorchester Six Members,

The Parish of Saint James Goose Creek Six Members.

The Parish of Saint Thomas and Saint Dennis Six Members

The Parish of Saint Paul Six Members

The Parish of Saint Bartholomew Six Members –

The Parish of Saint Helena Six Members –

The Parish of Saint James Santee Six Members –

The Parish of Prince George Winyaw<sup>3</sup> four Members.

The Parish of All-Saints two Members –

The Parish of Prince Frederick Six Members

The Parish of Saint John in Colleton County Six Members.

The Parish of Saint Peter Six Members –

The Parish of Prince William Six Members –

The Parish of Saint Stephen Six Members –

The District to the Eastward of Waterre<sup>4</sup>

River Ten Members –

The District of Ninety Six Ten Members.

The District of Saxe-Gotha Six Members,

The District between broad and Saludy rivers in three Divisions (viz<sup>1</sup>.) The lower District four Members – The little river District Four Members[.] The upper or Spartan District Four Members –

The District between broad and Catawba rivers Ten Members –

The District called the new acquisition Ten Members –

The Parish of Saint Matthew Three Members –

The Parish of Orange Three Members –

The Parish of Saint David Six Members –

The District between Savannah River and the North fork of Edisto Six Members –

AND the election of the said members shall be conducted as near as may be agreeable to the directions of the present or any future election act or acts and where there are no Churches or Church wardens in a District or Parish the House of Representatives at some convenient time before their expiration shall appoint places of election and Persons to receive votes and make returns – The qualification of Electors shall be – That every free white man and no other person who acknowledges the being of a God and believes in a future State of rewards and Punishments and who has attained to the age of one and twenty years and hath been a resident and an Inhabitant in this State for the space of one whole year before the day appointed for the election (he offers to give his vote at) and hath a free hold at least of fifty acres of land or a Town lot and hath been legally seized and possessed of the same at least six months previous to such Election or hath paid a tax the preceeding year or was taxable the present Year at least six months previous to the said Election in a sum equal to the

Tax on fifty acres of land to the Support of this Government shall be deemed a Person qualified to vote for and shall be capable of electing a representative or representatives to serve as a Member or Members in the Senate and House of Representatives for the Parish or District where he actually is a resident or in any other Parish or District in this State where he hath the like free-hold – Electors shall take an oath or affirmation of qualification if required by the returning Officer – No Person shall be eligible to sit in the House of Representatives unless he be of the Protestant religion and hath been a resident in this State for three Years previous to his Election, The qualification of the elected if residents in the Parish or District for which they shall be returned shall be the same as mentioned in the Election act and construed to mean clear of debt – But no Non-resident shall be eligible to a Seat in the House of representatives unless he is owner of a settled estate and free-hold in his own right of the value of three thousand and five hundred Pounds Currency at least clear of debt in the Parish or District for which he is elected.

ART. XIV. THAT if any Parish or District neglects or refuses to elect Members; or, if the members chosen do not meet in General Assembly those who do meet shall have the powers of the General Assembly. – Not less than sixty-nine members shall make a House of representatives to do business but the Speaker or any seven members may adjourn from day to day.

ART. XV. THAT at the expiration of seven years after the passing of this Constitution and at the end of every fourteen years thereafter the representation of the whole State shall be proportioned in the most equal and just manner according to the particular and comparative strength and taxable property of the different parts of the same regard being always had to the num-

ber of white inhabitants and such taxable Property.

ART. XVI. THAT all money bills for the support of Government shall originate in the House of Representatives and shall not be altered or amended by the Senate but may be rejected by them and that no money be drawn out of the Public Treasury but by the Legislative authority of the State all other Bills and Ordinances may take rise in the Senate or House of Representatives and be altered amended or – rejected by either[.] Acts and Ordinances having passed the General Assembly shall have the great Seal affixed to them by a joint Committee of both Houses who shall wait upon the Governor to receive and return the Seal and shall then be signed by the President of the Senate and Speaker of the House of Representatives in the Senate House and shall thenceforth have the force and validity of a law and be lodged in the Secretarys Office[.] And the Senate and House of Representatives respectively shall enjoy all other Privileges which have at any time been claimed or exercised by the Commons House of Assembly.

ART. XVII. THAT neither the Senate nor House of representatives shall have power to adjourn themselves for any longer time than three days without the mutual consent of both – The Governor and Commander in Chief shall have no power to adjourn prorogue or dissolve them but may if necessary by and with the advice and consent of the Privy Council convene them before the time to which they shall stand adjourned – And where a bill hath been rejected by either House it shall not be brought in again that Session without leave of the House and a notice of Six days being previously given.

ART. XVIII. THAT the Senate and House of Representatives shall each choose their respective Officers by Ballot without

controul and that during a recess the president of the Senate and Speaker of the House of Representatives shall issue writs for filling up vacancies occasioned by death in their respective Houses giving at least three weeks and not more than thirty five days previous notice of the time appointed for the election.

ART. XIX. THAT if any Parish or District shall neglect to Elect a member or Members on the day of election or in case any Person chosen a member of either House shall refuse to qualify and take his Seat as such or die or depart the State the Senate or House of representatives as the case may be shall appoint proper days for electing a member or members in such cases respectively.

ART. XX. THAT if any member of the Senate or House of Representatives shall accept any place of emolument, or any Commission (except in the militia or commission of the Peace) and except as is excepted in the tenth article he shall vacate his Seat and there shall thereupon be a new Election but he shall not be disqualified from serving, upon being re-elected unless he is appointed Secretary of the State, a Commissioner of the Treasury an Officer of the Customs, register of mesne conveyances a Clerk of either of the Courts of Justice, Sheriff, Powder receiver, Clerk of the Senate, House of representatives or Privy Council, Surveyor General or Commissary of Military Stores; which Officers are hereby declared disqualified from being members either of the Senate or House of representatives.

ART. XXI. 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 while he continues in the exercise of his Pastoral

function and for two years after shall be eligible either as Governor Lieutenant Governor a Member of the Senate House of Representatives or Privy Council in this State.

ART. XXII. THAT the Delegates to represent this State in the Congress of the United States be chosen annually by the Senate and House of representatives jointly by Ballot in the House of Representatives and nothing contained in this Constitution shall be construed to extend to vacate the seat of any member who is or may be a Delegate from this State to Congress as such.

ART. XXIII. THAT the form of impeaching all officers of the State for mal and corrupt conduct in their respective Offices not amenable to any other Jurisdiction be vested in the House of representatives[.] But that it shall always be necessary that two third parts of the members present do consent to and agree in such impeachment – That the Senators and such of the Judges of this State as are not members of the House of representatives be a Court for the trial of impeachments under such regulations as the Legislature shall establish[.] And that previous to the Trial of every impeachment the members of the said Court shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence[.] And no Judgment of the said Court except Judgment of acquittal shall be valid unless it shall be assented to by two third parts of the Members then present – And on every trial as well on impeachments as others the party accused shall be allowed Counsel.

ART. XXIV. THAT the Lieutenant Governor of the State and a majority of the Privy Council for the time being shall until otherwise altered by the Legislature exercise the powers of a Court of Chancery, And there shall be ordinaries appointed in the several Districts in this State to be chosen

by the Senate and House of Representatives jointly by Ballot in the House of Representatives who shall within their respective Districts exercise the Powers heretofore exercised by the Ordinary and until such appointment is made the present ordinary in Charles Town shall continue to exercise that office as heretofore.

ART. XXV. THAT the Jurisdiction of the Court of Admiralty be confined to maritime Causes.

ART. XXVI. THAT Justices of the Peace shall be nominated by the Senate and House of Representatives jointly and Commissioned by the Governor and Commander in Chief during pleasure – They shall be entitled to receive the fees heretofore established by Law and not acting in the Magistracy they shall not be intitled to the privileges allowed to them by Law.

ART. XXVII. THAT all other Judicial Officers shall be chosen by ballot jointly by the Senate and House of Representatives and except the Judges of the Court of Chancery commissioned by the Governor and Commander in Chief during good behaviour but shall be removed on Address of the Senate and House of Representatives.

ART. XXVIII. THAT the Sheriffs qualified at by Law directed shall be chosen in like manner by the Senate and House of representatives when the Governor Lieutenant Governor and Privy Council are chosen and commissioned by the Governor and Commander in Chief for two Years and shall give security as required by Law before they enter on the execution of their office – No Sheriff who shall have served for two years shall be eligible to serve in the said Office after the expiration of the said term until the full end and tem of four years but shall continue in office until such choice be made – Nor shall any person be eligible as Sheriff in any District unless he shall have resided

therein for two Years previous to the Election.

ART. XXIX. THAT two Commissioners of the Treasury The Secretary of the State, The registers of Mesne Conveyances in each District Attorney General Surveyor General Powder receiver Collectors and Comptrollers of the Customs and waiters be chosen in like manner by the Senate, and House of Representatives jointly by Ballot, in the House of Representatives and Commissioned by the Governor and Commander in Chief for two Years – That none of the said Officers respectively who shall have served for four Years shall be eligible to serve in the said Offices after the expiration of the said term until the full end and term of four Years but shall continue in office until a new choice be made PROVIDED that nothing herein contained shall extend to the several Persons appointed to the above Offices respectively under the late constitution AND that the present and all future Commissioners of the Treasury and Powder receivers shall each give Bond with approved security agreeable to Law.

ART. XXX. THAT all the Officers in the Army and Navy of this State of and above the rank of Captain shall be chosen by the Senate and House of Representatives jointly by Ballot in the House of Representatives and Commissioned by the Governor and Commander in Chief and that all other Officers in the Army and Navy of this State shall be Commissioned by the Governor and Commander in Chief.

ART. XXXI. THAT in Case of vacancy in any of the offices above directed to be filled by the Senate and House of Representatives the Governor and Commander in Chief with the advice and consent of the Privy Council may appoint others in their stead until there shall be an election by the

Senate and House of Representatives to fill those vacancies respectively.

ART. XXXII. THAT the Governor and Commander in Chief with the advice and consent of the Privy Council may appoint during pleasure until otherwise directed by Law all other necessary Officers except such as are now by Law directed to be otherwise chosen.

ART. XXXIII. THAT the Governor and Commander in Chief shall have no power to commence war or conclude Peace or enter into any final treaty without the consent of the Senate and House of Representatives.

ART. XXXIV. THAT the Resolutions of the late Congresses of this State and all Laws now of force here (and not hereby altered) shall to 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.

ART. XXXV. THAT the Governor and Commander in Chief for the time being by and with the advice and consent of the Privy Council may lay embargoes or prohibit the exportation of any Commodity for any time not exceeding thirty days in the recess of the General Assembly.

ART. XXXVI. THAT all Persons who shall be chosen and appointed to any Office, or to any place of trust civil or military before entering upon the execution of Office shall take the following oath.

I A.B. do acknowledge the State of South-Carolina to be a free independent and sovereign State and that the people thereof owe no allegiance or obedience to George the third King of Great Britain and I do renounce refuse and abjure any allegiance or obedience to him AND I do swear (or affirm as the case may be) that I will to the utmost of my Power support maintain and

defend the said State against the said King George the third and his Heirs and Successors and his or their abettors assistants and adherents and will serve the said State in the office of ——— with fidelity and Honour and according to the best of my skill and understanding – So help me God.

ART. XXXVII. THAT adequate yearly salaries be allowed to the Public Officers of this State and be fixed by Law.

ART. XXXVIII. THAT all Persons and religious societies who acknowledge that there is one God and a future State of rewards and Punishments and that God is publicly to be worshipped; shall be freely tolerated – The Christian protestant religion shall be deemed and is hereby constituted and declared to be the Established religion of this State – That all denominations of Christian Protestants in this State demeaning themselves peaceably and faithfully shall enjoy equal religious and civil privileges – To accomplish this desirable purpose without injury to the religious property of those Societies of Christians which are by Law already incorporated for the purpose of religious worship and to put it fully into the power of every other society of Christian Protestants either already formed or hereafter to be formed to obtain the like incorporation it is hereby CONSTITUTED APPOINTED and DECLARED, That the respective Societies of the Church of England that are already formed in this State for the purposes of religious worship shall still continue incorporate and hold the religious property now in their Possession – And that whenever fifteen or more male Persons not under twenty one years of age professing the Christian Protestant religion and agreeing to unite themselves in a Society for the purposes of a religious worship, they shall (on complying with the terms herein after mentioned) be and be constituted a Church and be esteemed and regarded in law as of

the established religion of the State and on a Petition to the Legislature shall be intitled to be incorporated and to enjoy equal privileges – That every society of Christians so formed shall give themselves a name or denomination by which they shall be called and known in Law, and all that associate with them for the purposes of worship shall be esteemed as belonging to the society so called. – But that previous to the establishment and incorporation of the respective Societies of every denomination as aforesaid and in order to entitle them thereto each society so petitioning shall have agreed to and subscribed in a book the following five articles without which no agreement or union of men upon pretence of Religion shall intitle them to be incorporated and esteemed as a Church of the established religion of this State.

FIRST, THAT there is one eternal God and a future State of rewards and Punishments.

SECOND, THAT God is publicly to be worshipped.

THIRD, THAT the Christian religion is the true religion.

FOURTH, THAT the Holy Scriptures of the old and new Testament are of divine inspiration and are the rule of faith and Practice.

FIFTH, THAT it is lawful and the duty of every man being thereunto called by those that govern to bear witness to Truth.

THAT every inhabitant of this State when called to make an appeal to God as a witness to truth shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience – AND that the People of this State may for ever enjoy the right of electing their [own] Pastors or Clergy and at the same time that the State may have sufficient Security for the due discharge of the Pastoral Office by those who shall be admitted to be Clergy-men. – no Person shall officiate as minister of any established

Church who shall not have been chosen by a majority of the Society to which he shall minister or by persons appointed by the said Majority to chuse and procure a minister for them nor until the minister so chosen and appointed shall have made and subscribed to the following declaration over and above the aforesaid five articles (viz<sup>t</sup>.)

THAT he is determined by Gods Grace out of the holy scriptures to instruct the people committed to his charge and to teach nothing (as required of necessity to eternal salvation) but that which he shall be persuaded may be concluded and proved from the scripture that he will use both Public and private admonitions as well to the Sick as to the whole within his cure as need shall require and occasion shall be given and that he will be diligent in Prayers and in reading of the Holy Scriptures and in such Studies as help to the knowledge of the same that he will be diligent to frame and fashion his own self and his family according to the doctrine of Christ and to make both himself and them as much as in him lieth wholesome examples and patterns to the flock of Christ that he will maintain and set forwards as much as he can quietness Peace and love among all people and especially among those that are or shall be committed to his charge.

No Person shall disturb or molest any religious assembly – nor shall use any reproachful reviling or abusive language against any Church that being the certain way of disturbing the Peace and of hindering the conversion of any to the truth by engaging them in quarrels and animosities to the hatred of the professors and that profession which otherwise they might be brought to assent to. – No Person whatsoever shall speak any thing in their religious assembly irreverently or seditiously of the Government of this State. – No Person shall by Law be obliged to pay towards the maintenance and Support of a religious worship that he does not

freely join in or has not voluntarily engaged to support. – But the Churches Chapels, Parsonages, Glebes and all other property now belonging to any Societies of the Church of England or any other religious Societies shall remain and be secured to them for ever. – The poor shall be supported and Elections managed in the accustomed manner until Laws shall be provided, to adjust those matters in the most equitable way.

ART. XXXIX. THAT the whole State shall as soon as proper Laws can be passed for those purposes be divided into Districts and Counties and County Courts established.

ART. XL. THAT the penal Laws as heretofore used shall be reformed and Punishments made in some cases less sanguinary and in general more proportionate to the Crime.

ART. XLI. THAT no Freeman of the State be taken or imprisoned or disseised of his freehold liberties or privileges or outlawd 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.

ART. XLII. THAT the military be subordinate to the civil power of the State.

ART. XLIII. THAT the liberty of the press be inviolably preserved.

ART. XLIV. THAT no part of this Constitution shall be altered without a notice of ninety days being previously given nor shall any part of the same be changed without the consent of a Majority of the Members of the Senate and House of Representatives.

ART. XLV. THAT the Senate and House of Representatives shall not proceed to the Election of a Governor or Lieutenant Governor until there be a Majority of both Houses present.

In the Council Chamber the 19<sup>th</sup> day of March 1778.

Assented to.

Raw[lins] Lowndes.

Hugh Rutledge *Speaker of the legislative Council.*

Tho[mas] Bee *Speaker of the General Assembly*

<sup>1</sup> Verified by *An Act for Establishing the Constitution of the State of South-Carolina. Passed the 19th Day of March, 1778*, Charles-Town: Printed by Authority, and sold by Nicholas Boden, and Comp., M,DCC,LXXVIII [1778], 15 p., and corrected according to the original manuscript as preserved in the South Carolina Department of Archives and History at Columbia, S.C. Checked also against the version as published in *The Statutes at Large of South Carolina*; ed., under Authority of the Legislature, by Thomas Cooper, I, Columbia, S.C.: Printed by A. S. Johnston, 1836, 137–146, and as in *Basic Documents of South Carolina History: The Constitution of 1778*, ed. by Robert L. Meriwether, Columbia, S.C.: Published by the Historical Commission of South Carolina, 1953, 7 p. Spelling, capitalization, and punctuation as in the original manuscript. Italics are used to represent emphasized text in the manuscript as well as non-English legal terms. The constitution was not submitted to the people and went into effect on March 19, 1778. It superceded the first constitution of 1776 (*q.v.*) and was replaced by the third constitution of 1790 (*q.v.*).

<sup>2</sup> Word supplied by editor throughout. No paragraphing in manuscript. Paragraphing here follows the Boden print.

<sup>3</sup> In Boden print, 7, and in *Basic Documents*, ed. by Meriwether, [3], “Winyah”.

<sup>4</sup> In Boden print, 7, in *Statutes at Large*, I, 140, and in *Basic Documents*, ed. by Meriwether, [3], “Wateree”.