

**L A W S**

OF THE

**S T A T E O F D E L A W A R E ,**

FROM THE SIXTEENTH DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND  
THIRTY, TO THE THIRTEENTH DAY OF FEBRUARY, ONE THOU-  
SAND EIGHT HUNDRED AND THIRTY-FIVE.

TO WHICH IS PREFIXED

**T H E A M E N D E D C O N S T I T U T I O N**

OF SAID STATE.

VOLUME VIII

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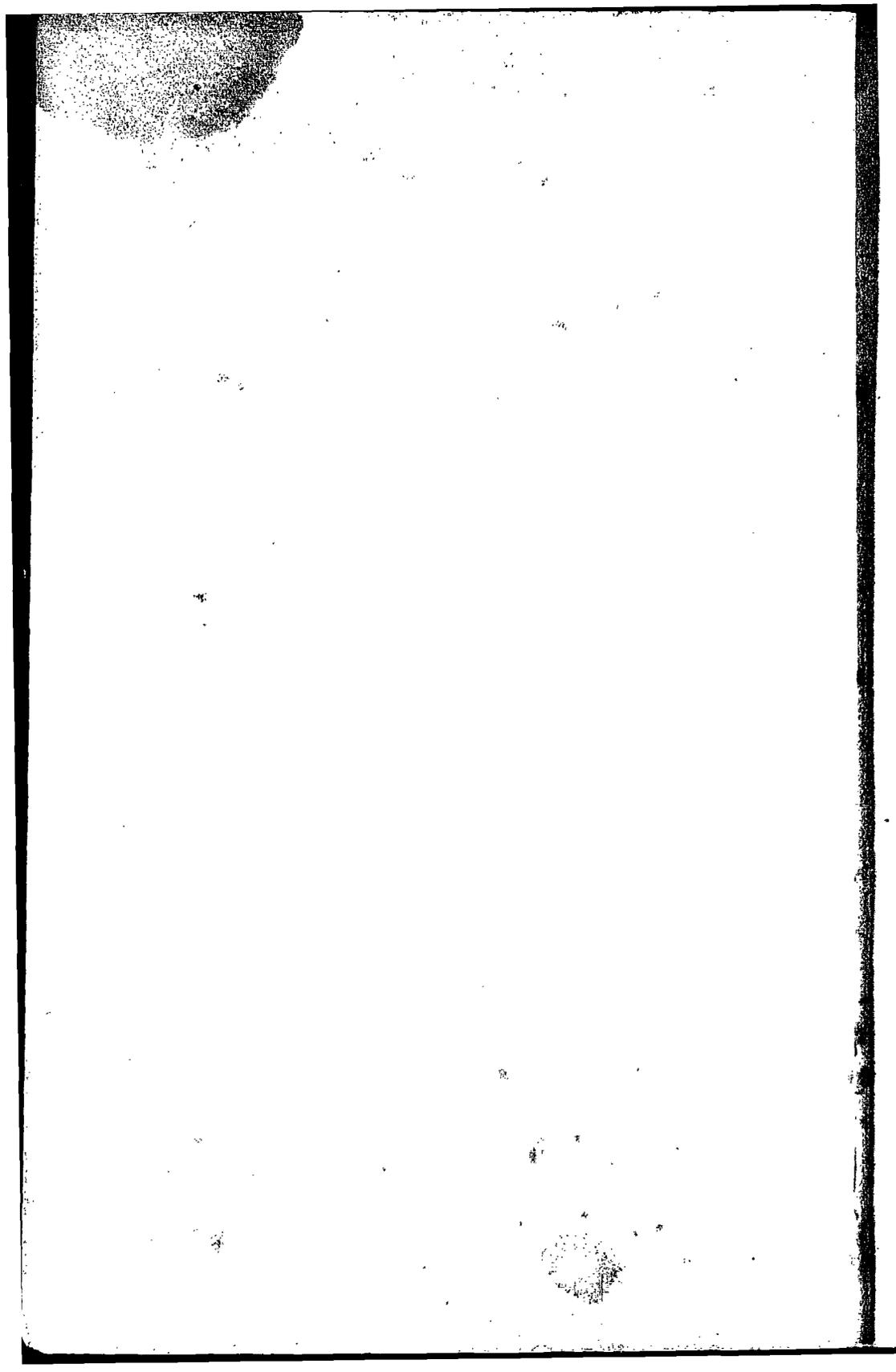
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**1841.**



THE  
AMENDED CONSTITUTION  
OF THE  
STATE OF DELAWARE.

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*WE, the People, hereby ordain and establish this Constitution of Government for the State of Delaware.*

THROUGH Divine goodness all men have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of attaining objects suitable to their condition, without injury by one to another: and as these rights are essential to their welfare, for the due exercise thereof power is inherent in them; and therefore all just authority in the institutions of political society is derived from the People, and established with their consent, to advance their happiness: And they may, for this end, as circumstances require, from time to time alter their Constitution of Government.

ARTICLE I.

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality on which the prosperity of communities depends, are thereby promoted; yet no man shall, or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent: and no power shall or ought to be vested in or assumed by any magistrate, that shall in any case interfere with, or in any manner control, the rights of conscience, in the free exercise of religious worship: nor shall a preference be given by law to any religious societies, denominations, or modes of worship.

SEC. 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

SEC. 3. All elections shall be free and equal.

SEC. 4. Trial by Jury shall be as heretofore.

Elections.

Jury trial.

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*The press.*

**SEC. 5.** The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence: and in all indictments for libels the jury may determine the facts and the law, as in other cases.

*Warrants of search or arrest.*

**SEC. 6.** The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures: and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be; nor then, unless there be probable cause supported by oath or affirmation.

*Rights of accused.*

**SEC. 7.** In all criminal prosecutions, the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury: he shall not be compelled to give evidence against himself: nor shall he be deprived of life, liberty or property, unless by the judgment of his peers or the law of the land.

**SEC. 8.** No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger: and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

*Administration of justice.*

**SEC. 9.** All courts shall be open: and every man for an injury done him in his reputation, person, moveable, or immoveable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense: and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried, shall determine that an impartial trial therefor cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

*Suits against the State.*

*Suspending laws.*

**SEC. 10.** No power of suspending laws shall be exercised, but by authority of the Legislature.

*Bail, punishments. Gaols.*

**SEC. 11.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted: and in the construction of gaols, a proper regard shall be had to the health of prisoners.

*Privileges of prisoners.*

**SEC. 12.** All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is positive or the presump-

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tion great: and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

SEC. 13. The privilege of the writ of *Habeas Corpus* shall not be suspended, unless when in cases of rebellion, or invasion, the public safety may require it. Habeas corpus.

SEC. 14. No commission of Oyer and Terminer or gaol delivery shall be issued. Oyer and Terminer.

SEC. 15. No attainder shall work corruption of blood, nor except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives, shall descend or vest as in case of natural death: and if any person be killed by accident, no forfeiture shall be thereby incurred. Attainder, suicide, deodand.

SEC. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also in governments of a republican form, contravenes the social principles of such governments founded on common consent for common good; yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address. Right to petition.

SEC. 17. No standing army shall be kept up without the consent of the Legislature: and the military shall, in all cases and at all times, be in strict subordination to the civil power. Military.

SEC. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but by a civil magistrate, in a manner to be prescribed by law. Quartering soldiers.

SEC. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behavior; and no person holding any office under this State, shall accept of any office or title of any kind whatever, from any king, prince, or foreign state. Titles and offices.

WE DECLARE THAT EVERY THING IN THIS ARTICLE IS RESERVED OUT OF THE GENERAL POWERS OF GOVERNMENT HERINAFTER MENTIONED. Reservation.

### ARTICLE II.

SEC. 1. The legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. Legislature. General Assembly.

SEC. 2. The Representatives shall be chosen for two years, by the citizens residing in the several counties. Representatives.

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## Qualifications.

No person shall be a Representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term, an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

## Number.

There shall be seven Representatives chosen in each county, until a greater number of Representatives shall by the General Assembly be judged necessary; and then, two-thirds of each branch of the Legislature concurring, they may by law make provision for increasing their number:

## Senators.

SEC. 3. The Senators shall be chosen for *four* years by the citizens residing in the several counties.

## Qualifications.

No person shall be a Senator, who shall not have attained to the age of twenty-seven years, and have in the county in which he shall be chosen, a freehold estate in two hundred acres of land, or an estate in real and personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the Legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

## Numbers.

There shall be three Senators chosen in each county. When a greater number of Senators shall by the General Assembly be judged necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number; but the number of Senators shall never be greater than one-half, nor less than one-third of the number of Representatives:

## Vacancies.

*If the office of Representative, or the office of Senator, become vacant before the regular expiration of the term thereof, a Representative or a Senator shall be elected to fill such vacancy, and shall hold the office for the residue of said term.*

*When there is a vacancy in either House of the General Assembly, and the General Assembly is not in session, the Governor shall have power to issue a writ of election to fill such vacancy; which writ shall be executed as a writ issued by the Speaker of either House in case of vacancy.*

## Biennial meeting.

SEC. 4. The General Assembly shall meet on the first Tuesday of January, *biennially*, unless sooner convened by the Governor.

## First meeting.

*The first meeting of the General Assembly, under this amended Constitution, shall be on the first Tuesday of January, in the year of our Lord, one thousand eight hundred and thirty-three, which shall be the commencement of biennial sessions.*

## Each

SEC. 5. Each House shall choose its Speaker and other officers,

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and also each House, whose Speaker shall exercise the office of <sup>House, officers.</sup> Governor, may choose a Speaker *pro tempore*.

SEC. 6. Each House shall judge of the elections, returns, and <sup>Powers.</sup> qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may ad- <sup>Quorum.</sup> journ from day to day, and shall be authorised to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

SEC. 7. Each House may determine the rules of its proceedings, <sup>Punishing.</sup> punish any of its members for disorderly behavior, and with the concurrence of two-thirds expel a member, and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

SEC. 8. Each House shall keep a journal of its proceedings, and <sup>Journals.</sup> publish them immediately after every session, except such parts as may require secrecy; and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

SEC. 9. The doors of each House, and of committees of the <sup>Open doors.</sup> whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 10. Neither House shall, without the consent of the other, <sup>Adjournment.</sup> adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 11. The Senators and Representatives shall receive a com- <sup>Compensation and pri-  
vileges.</sup> pensation for their services to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect, till an election of Representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

SEC. 12. No Senator or Representative shall, during the time <sup>Exclusion  
of members  
from offices.</sup> for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contract, no member of <sup>Disqualifica-  
tions to be  
members.</sup> Congress, nor any person holding any office under this State or the United States, except the Attorney-general, officers usually appointed by the Courts of Justice respectively, Attorneys at law and officers in the militia, holding no disqualifying office, shall during his continuance in Congress or in office, be a Senator or Representative.

SEC. 13. When vacancies happen in either House, writs of elec- <sup>Vacancies.</sup> tion shall be issued by the Speakers respectively, or in cases of necessity, in such other manner as shall be provided by law; and

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the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected, might have done, if such vacancies had not happened.

Revenue bills.

SEC. 14. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill, from the operation of which when passed into a law revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

Public money.

SEC. 15. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published *at least once in every two years.*

State treasurer.

SEC. 16. *The State Treasurer shall be appointed biennially by the House of Representatives, with the concurrence of the Senate. In case of a vacancy in the office of State Treasurer in the recess of the General Assembly, either through omission of the General Assembly to appoint, or by the death, removed out of the State, resignation, or inability of the State Treasurer, or his failure to give security, the Governor shall fill the vacancy by appointment to continue until the next meeting of the General Assembly. The State Treasurer shall settle his accounts annually with the General Assembly or a committee thereof, which shall be appointed at every biennial session. No person who hath served in the office of State Treasurer, shall be eligible to a seat in either House of the General Assembly until he shall have made a final settlement of his accounts as Treasurer and discharged the balance, if any, due thereon.*

Corporations.

SEC. 17. *No act of incorporation, except for the renewal of existing corporations, shall be hereafter enacted without the concurrence of two-thirds of each branch of the Legislature, and with a reserved power of revocation by the Legislature; and no act of incorporation which may be hereafter enacted, shall continue in force for a longer period than twenty years, without the re-enactment of the Legislature, unless it be an incorporation for public improvement.*

### ARTICLE III.

Executive Governor.

SEC. 1. The Supreme Executive powers of the State shall be vested in a Governor.

Election.

SEC. 2. The Governor shall be chosen by the citizens of the State.

Election returns.

The returns of every election for Governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the Speaker of the Senate, or in case of the vacancy of the office of the Speaker of the Senate, or his absence from the State, to the Secretary of State, who shall keep the same until a Speaker

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of the Senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both Houses of the Legislature. Duplicates of the said returns shall also be immediately lodged with the Prothonotary of each county. The person having the highest number of votes shall be Governor: but if two or more shall be equal in the highest number of votes, the members of the two Houses shall, by joint ballot, choose one of them to be Governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the Speaker of the Senate shall have an additional casting vote.

Contested elections of a Governor shall be determined by a joint committee, consisting of one-third of all the members of each branch of the Legislature, to be selected by ballot of the Houses respectively; every person of the committee shall take an oath or affirmation, that in determining the said election, he will faithfully discharge the trust reposed in him: and the committee shall always sit with open doors. Election contested.

SEC. 3. The Governor shall hold his office during *four* years from the third Tuesday of January next ensuing his election, and shall not be *eligible a second time to said office.* Tenure of office.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the Legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States or of this State. Qualifications.

SEC. 5. No member of Congress, nor person holding any office under the United States or this State, shall exercise the office of Governor. Disqualifications.

SEC. 6. The Governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected. Compensation.

SEC. 7. He 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 service of the United States. Commander-in-chief.

SEC. 8. He shall appoint all officers whose offices are established by this Constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county, who shall not have a right to vote for Representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of Judge, Treasurer, Attorney-General, Secretary, Pro- Appointments to offices. Incompatible offices.

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Commissioners. Prothonotary, Register for the probate of wills and granting letters of administration, Recorder, Sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the Legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit: Treasurer, Attorney-General, Prothonotary, Register or Sheriff. All commissions shall be in the name of the State, shall be sealed with the Great Seal, and be signed and tested by the Governor.

Pardon. SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment. *He shall set forth in writing, fully, the grounds of all reprieves, pardons and remissions, to be entered in the Register of his official acts, and laid before the General Assembly at their next session.*

Information. SEC. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Communications to general assembly. SEC. 11. He shall from time to time give to the General Assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

Convening and adjourning general assembly. SEC. 12. 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 exceeding three months.

SEC. 13. He shall take care that the laws be faithfully executed.

Vacancy. SEC. 14. *Upon any vacancy happening in the office of Governor, by his death, removal, resignation, or inability, the Speaker of the Senate shall exercise the office until a Governor elected by the people shall be duly qualified. If there be no Speaker of the Senate, or upon a further vacancy happening in the office by his death, removal, resignation or inability, the Speaker of the House of Representatives shall exercise the office until a Governor elected by the people shall be duly qualified. If the person elected Governor shall die, or become disqualified, before the commencement of his term of office, or shall refuse to take the same, the person holding the office shall continue to exercise it, until a Governor shall be elected and duly qualified. If upon a vacancy happening in the office of Governor, there be no other person who can exercise said office within the provisions of the Constitution, the Secretary of State shall exercise the same until the next meeting of the General Assembly, who shall immediately proceed to elect by joint ballot of both Houses a person to exercise the office until a Governor elected by the people shall be duly qualified. If a vacancy occur in the office of Governor, or if the Governor elect die, or become disqualified, before the commencement of his term, or refuse to take the office, an election for Governor shall be held at the next general election, unless the vacancy happen within six days next pre-*