

CONSTITUTION
OF THE
STATE OF NEW JERSEY.

A CONSTITUTION agreed upon by the delegates of the people of New Jersey, in convention, begun at Trenton on the fourteenth day of May, and continued to the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-four.

WE, the people of the state of New Jersey, grateful to Almighty God Preamble.
for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, do ordain and establish this constitution:

ARTICLE I.

RIGHTS AND PRIVILEGES.

1. All men are by nature free and independent, and have certain Natural rights.
natural and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.^(a)
2. All political power is inherent in the people. Government is insti- Political powers.
tuted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.
3. No person shall be deprived of the inestimable privilege of worship- Rights of con-
ping Almighty God in a manner agreeable to the dictates of his own sci-
ence; nor under any pretence whatever be compelled to attend any
place of worship contrary to his faith and judgment; nor shall any
person be obliged to pay tithes, taxes, or other rates for building or
repairing any church or churches, place or places of worship, or for the
maintenance of any minister or ministry, contrary to what he believes
to be right, or has deliberately and voluntarily engaged to perform.
4. There shall be no establishment of one religious sect, in preference No religious es-
to another; no religious test shall be required as a qualification for any tablishment or
office or public trust; and no person shall be denied the enjoyment of test.
any civil right, merely on account of his religious principles.
5. Every person may freely speak, write, and publish his sentiments on Liberty of speech
all subjects, being responsible for the abuse of that right. No law shall and of the press.
be passed to restrain or abridge the liberty of speech or of the press. In
all prosecutions or indictments for libel, the truth may be given in evi- Libels.
dence to the jury; and if it shall appear to the jury that the matter
charged as libellous is true, and was published with good motives and for

(a) No person can be deprived of the right to manage his own affairs, or of his personal liberty, without the intervention of a jury, *In re Dey*, 1 Stock. 181. The declaration in the constitution that "all men are by nature free and independent," &c. did not abolish slavery in N. J., or affect the laws existing on that subject at the time of its adoption, *State v. Post*, *Spen.* 368; 1 Zab. 699. The grant to one of the power to manage and improve the property of another

without his consent, and contrary to his judgment, even if exclusively for his benefit, is an infringement of the right of acquiring, possessing, and enjoying property, guaranteed to every one by the constitution, *Coster v. Tide Water Co.*, 3 C. E. Gr. 54, 518. The destruction of property of another in abating a public nuisance, is justifiable and constitutional, *Manhattan Co. v. Van Keuren*, 8 C. E. Gr. 251.

- justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.(a)
- Persons and property secured. 6. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized.
- Trial by jury. 7. The right of a trial by jury shall remain inviolate; but the legislature may authorize the trial of civil suits, when the matter in dispute does not exceed fifty dollars, by a jury of six men.(b)
- Rights of persons accused. 8. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defence.
- How to be charged. 9. No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy or in the militia, when in actual service in time of war or public danger.(c)
- Acquittal. 10. No person shall, after acquittal, be tried for the same offence.(d)
- Bail. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or presumption great.
- Habeas corpus. 11. The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it.
- Military subordinate. 12. The military shall be in strict subordination to the civil power.(e)
- Quartering. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, except in a manner prescribed by law.
- Treason. 14. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.
- Bail, fines, punishments. 15. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

(a) Query. Whether in a prosecution for libel, the jury can, on the cause being submitted to them, lawfully disregard the instruction of the judge as to the law of the case, *State v. Jay*, 5 Vr. 368.

(b) These words are fully satisfied, by preserving the trial by jury in all criminal cases, and all trials of right in suits at common law. *Seudder v. Trenton Del. Falls Co.*, Sae. 696. *Howe v. Plainfield*, 8 Vr. 145. It does not extend to suits in chancery, prerogative or orphans' court, *Wood v. Tallman*, *Coxe* 153, 158. *Kinsey, C. J.* Nor to summary proceedings in attachments for contempt of court, *State v. Doty*, 3 Vr. 403, 405. *Beasley, C. J.* An appeal to a jury is not a matter of right. This provision does not interfere with such modes of ascertaining damages for lands taken by eminent domain as the legislature could provide before its adoption, *In re Lower Chatham*, 6 Vr. 497. The act for the collection of demands against ships, steamboats, and other vessels, does not conflict with the constitution, *Edwards v. Elliott*, 7 Vr. 449. The constitutionality of a law authorizing a conviction for a penalty exceeding \$16, without allowing a trial by jury, is doubtful, *State v. Zeigler*, 3 Vr. 262. A section of a charter authorizing the common council to provide for the enforcement of its ordinances by imprisonment not exceeding seven days, or by a fine not exceeding \$20, without providing for a trial by jury, is not unconstitutional, *McGear v. Woodruff*, 4 Vr. 213. A statute authorizing the seizure of a vessel owned or employed by non-residents in taking oysters unlawfully from the waters of this state, and condemning her therefor, is not unconstitutional because no trial by jury is provided, *Haney v. Compton*, 7 Vr. 507, 524. *Bevans v. Compton, U. S. C. C. for N. J.*, 7 Vr. 525. *Nixon, J.* This provision is substantially the same as that upon the same subject contained in the constitution of 1776, and neither was intended to extend the right of trial by jury to cases where it did not previously attach, *Howe v. Plainfield*, 8 Vr. 146. A trial by jury is not allowable on an information for profanity, *Johnson v. Barclay*, 1 Harr. 1. Where an act of the legislature requires a board of finance to select arbitrators to fix the compensation of a contractor whose contract is superseded by such act, the board cannot object that the right of trial by jury has been violated, *Cleveland v. Jersey City*, 9 Vr. 259. See *Harrison v. Sloan*, 1 Hal. 410, 412, *in arg.* A law submitting to certain persons to determine when this necessity (the right of eminent

domain) exists, and to act upon it, is not unconstitutional, as taking away the right of trial by jury, *American Print Works v. Lawrence*, 1 Zab. 248. A law authorizing a trial by a jury of six, was formerly unconstitutional, *Holmes v. Walton*, 4 Hal. 444. A party may waive his right to a trial by jury, but such waiver must be express; and he cannot be deprived of it by a rule of court to the effect that if he does not claim it, he shall be deemed to have waived it, *Hinchey v. Machine*, 3 Gr. 476. *Ten Eyck v. Farlee*, 1 Harr. 348.

(c) The filing of an information by the attorney-general on behalf of the state, in the nature of a *quo warranto*, is not unconstitutional, *Att'y Gen. v. Del. and B. B. R. R. Co.*, 9 Vr. 282. "Without a legal presentment, no man can be tried for any heinous offence," *State v. Rockafellow*, 1 Hal. 332, 339. *Kirkpatrick, C. J.*

(d) If, after the jury are sworn in a criminal case, and depart from the bar, one of the jurors separates from his fellows, whereby the court is compelled to discharge the jury, without the consent of the defendant, he may be again put upon his trial on the same indictment, *State v. Hall*, 4 Hal. 256. It seems, if a defendant be discharged for want of prosecution upon an indictment, that he cannot afterwards be arraigned or tried under that indictment, but such discharge is no bar to a subsequent indictment or trial thereon, *State v. Garthwaite*, 3 Zab. 143. Where a defendant was acquitted by reason of a variance caused by the clerk, the court refused to bind the defendant to appear to answer the original indictment, *State v. Jones*, 6 Hal. 289. In cases where an acquittal would relieve a defendant, a former conviction would have the same effect, *State v. Cooper*, 1 Gr. 361. The court will not order a new trial, where there has been a verdict in favor of the defendant, *State v. De Hart*, 2 Hal. 172. *State v. Kanouse*, Spen. 115.

(e) In great emergencies, where cities or districts are declared to be under martial law, and subject to all the rules of war, the power of the civil courts is wholly superseded, *State v. Davis*, 1 South. 311, 312. *Kirkpatrick, C. J.* But a court constituted by statute, acting against a private citizen by way of fine for neglect of military duty, and not upon the person to compel obedience, is a civil court, and its proceedings are subject to review by the supreme court, *Ibid.* Definition of martial law, *Ibid.*

16. Private property shall not be taken for public use, without just compensation; but land may be taken for public highways, as heretofore, for public use, until the legislature shall direct compensation to be made. (a)

(a) Private property cannot be taken for private use. The legislature have no right to take the property of one man and give it to another, even upon just compensation made, *Scudder v. Trenton Del. Falls Co.*, 3 Sax. 695. The right of the state to take private property for public use, making just compensation, is a right appertaining to sovereignty, which the state may freely exercise on all proper occasions, and which a jury has no power to control, *Ibid.* This right was originally founded on *state necessity*. In process of time the right has been more liberally construed; the term *public use* has been substituted; and what shall be considered as public use, is, under the decisions of our courts, an unsettled question. What shall be a *public use* or *benefit* may depend somewhat on the situation and wants of the community for the time being, *Ibid.* This right is not limited to the actual use and occupation of the property by the state; for private property is taken, in many instances, where the state, in its sovereign capacity, does not and cannot occupy it. It is not limited to public political corporations; for the right of private corporations to take private property for a variety of purposes, such as canals and railroads, is not disputed at this day, *Ibid.* The constitution protects property from arbitrary seizure or divestiture; not by legal process and on compensation made, *Bonaparte v. Camden and Amboy R. R. Co.*, 3 Bald. C. C. 205. A declaration in a charter, or by the legislature, does not make the use a public one, if it be really private, *Coster v. Tide Water Co.*, 3 C. E. Gr. 54, 518. The power of eminent domain is a legislative power; these powers, by the constitution, are vested in the legislature. Private property may be taken for public use, but only on adequate compensation, *Ibid.* The public use for which property may be taken by the power of eminent domain is the use of the property itself by the government, or by the general public, or some portion of it; not by particular individuals, or for the benefit of certain estates, *Ibid.* For the purpose of reclaiming large tracts of lands, the rights of eminent domain and of taxation may be employed, *Ibid.* The original charter of the Morris Canal and Banking Co. gives them the right to enter upon and take lands required for their work, without first making compensation. Such enactment is constitutional; and although no compensation or assessment is ever made, the owner of the lands cannot bring ejectment, *Den v. Morris Canal Co.*, 4 Zab. 587. See *Bergen Turnpike Co. v. State*, 1 Dutch. 554, 555. An act of the legislature cannot authorize a railroad company incorporated by it, to take land for the construction of their road without first making compensation therefor to the owner, *Doughty v. Somerville and Easton R. R. Co.*, 3 Hal. Ch. 51. The necessity of first making compensation is not avoided by the plea that the work in which the defendants are engaged is an exploration. It is not the exploration contemplated by a charter, giving license to enter upon lands to explore, &c., *Morris and Essex R. R. Co. v. Hudson Tunnel Co.*, 10 C. E. Gr. 384, affirmed July, 1876. A provision in a railroad charter to ascertain the value of lands taken by commissioners, and vesting lands in company upon a tender of such assessment, although an appeal from such assessment to a jury is given, does not render the appointment of commissioners unconstitutional, *Doughty v. Somerville R. R. Co.*, 1 Zab. 443. The court of chancery will not permit the property of one person or corporation to be taken by another, without compensation first paid. In almost every like case, compensation could be made in damages, yet equity always interferes by injunction, and does not permit the property to be taken and the party put to his action, *Jersey City and Bergen Co. v. Jersey City and Hoboken R. R. Co.*, 3 C. E. Gr. 82. *Folley v. Passaic*, 11 C. E. Gr. 216. Where a charter provided that upon a tender or deposit of the amount awarded by commissioners, the company could take possession of the land and build the road, the provision of the charter and of the constitution, prohibiting the taking of land without compensation first made, has no application to such case, *Cooper v. Chester R. R. Co.*, 4 C. E. Gr. 200. Under section 12 of the General R. R. Act (1873, p. 94), on proof of tender to the land owner of the amount awarded, or a deposit in the county clerk's office, the company is entitled to the possession and use of the land, *Mercer and Somerset R. R. Co. v. Del. and B. R. R. Co.*, 1 C. E. Gr. 464. This right only exists where expressly granted, *Bronning v. Camden and Woodbury R. R. Co.*, 3 Gr. Ch. 47. *Mettler v. Easton and Amboy R. R. Co.*, 10 C. E. Gr. 214. In the exercise of the right of eminent domain, the legislature may authorize shares in corporations and corporate franchises to be taken for public uses, upon just compensation, *Black v. Del. and Rar. Canal Co.*, 9 C. E. Gr. 455. See *Gifford v. N. J. R. R. Co.*, 2 Stock. 171. The government cannot, even for public purposes, take away the rights of individuals without compensation, *Ten Eyck v. Del. and Rar. Canal Co.*, 3 Harr. 200. *Society, &c. v. Morris Canal Co.*, 3 Sax. 157. *Tinsman v. Bel. Del. R. R. Co.*, 2 Dutch. 148. Where an act authorizes the straightening of the channel of a creek, it cannot be cut through the land of an individual for the purpose, without first making compensation. It is such taking of private property for public use as is contemplated by this provision, *Carson v. Coleman*, 3

Stock, 106, 525. The legislature have not the power to declare that the benefits which an individual is to derive from a contemplated enterprise shall be taken by him as compensation for his property taken. This is not the compensation contemplated by the constitution. The owner of the property taken must be compensated in money. The constitution means that a fair valuation shall be made of the property taken, and the amount of such valuation, in money, shall be paid before the property is appropriated. If the legislature does not provide a mode of compensation, the owner may fix it himself, and it must be paid before the property is taken, *Ibid.* An act authorizing a dam to be taken down, without providing compensation, is unconstitutional, *Glover v. Powell*, 2 Stock. 211. A statute which authorizes the raising of a dam so as to overflow lands to a greater height, when that height exceeds the limit prescribed by the grant under which the first dam overflowed them, is unconstitutional, if it does not provide compensation for such additional overflow. But this raising is not such a taking of the lands which are already occupied by the water, nor such an irreparable injury as will authorize the interference of this court by injunction, *Colwell v. May's Landing Co.*, 4 C. E. Gr. 246. A water company cannot condemn the plaintiff's right to the flow of a brook over his close, without including and taking the bed of the stream, *Watson v. Acquackanonk Co.*, 7 Vr. 195. The right of the legislature to intervene for the drainage of lands of a certain character, such as contemplated in the act of March 8th, 1871, entitled "An act to provide for the drainage of lands," cannot now be questioned in this court. The purpose is sufficiently public to justify the exercise of both the power of eminent domain and of taxation, *In re Lower Chatham*, 6 Vr. 497. The power of eminent domain belongs to the legislature, and is not judicial in its nature. The legislature should be controlled by the courts only when it is clear that the purpose is not of a public nature, *Ibid.* By the charter of "The Tidewater Company," commissioners were to be appointed, who were authorized to make a contract with such company, for the drainage of large tracts of meadow land, the property of various individuals, said commissioners being also empowered to assess upon said lands, when reclaimed, a just proportion of the contract price. Held, that such scheme was illegal and void, inasmuch as the expense to be levied on the land was not limited in amount to the extent of the benefit to be conferred, *Coster v. Tidewater Co.*, 3 C. E. Gr. 518. See *State, Doyle v. Newark*, 5 Vr. 236. The cost of a public improvement may be imposed on the property peculiarly benefited; but the cost beyond this measure must be levied upon the public at large, *Ibid.* To compel the owner of property to bear the expense of an improvement, except to the extent of his particular advantage, is, *pro tanto*, to take private property for public use without compensation, *Ibid.* When, by legislative enactments, commissioners were appointed to survey and map the lands of the township of Greenville, in the county of Hudson, with a provision that when they should open streets for public use compensation should be made to land owners, the right to take at a future day is not such a present deprivation of property as to require immediate payment, *State, Hudson Co. v. Seymour*, 6 Vr. 47. If an act makes no provision for compensating the owner, his property cannot be taken without his consent, *Carson v. Coleman*, 3 Stock. 106. Although the means of obtaining compensation are not provided in the act, yet if the principle is admitted, or if it should be ineffectual, it will not invalidate the act; further legislation may remedy the defects, and no one will be deprived of his property until the method is provided to assess his damage, *Ibid.* A taxing act is fatally defective if the legislature does not designate the property out of which it is to be made, and prescribe a mode for enforcing it, *State, M' Closkey v. Chamberlin*, 8 Vr. 388. *State, Gaines v. Hudson Co.*, 8 Vr. 12. It is a legitimate exercise of the taxing power for the legislature to authorize the whole cost of a local improvement, such as opening, grading and paving streets, to be assessed upon lands which, by reason of their peculiar location, may be regarded as benefited—and such authority is not in violation of the constitutional clause against taking private property without just compensation, *State, Sigler v. Fuller*, 5 Vr. 227. But if the lands within the circle of benefits are not benefited as much as the improvement costs, the excess must be borne by general taxation, *State, Hoboken Land Co. v. Hoboken*, 7 Vr. 291. Where certain streets were laid out upon a map, by commissioners, and might not be opened for several years, an owner, who built a house within the limits of such street, before the passage of the ordinance to open it, must be allowed the value of his improvements, *State, Jones v. Carraigan*, 7 Vr. 52. The legislature has not the power, under the constitution of this state, to authorize a market to be held in a public street of a city, without providing compensation to the proprietors of the contiguous lands, who own to the centre of such street, *State v. Laverack*, 5 Vr. 201. If lands subject to an easement are taken for a highway, the owner of such easement cannot appropriate other lands of the owner in order to subject them to such easement, *Johnson v. Jaqui*,

- Imprisonment for debt. 17. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in cases of fraud;(a) nor shall any person be imprisoned for a militia fine in time of peace.
- Right of petition. 18. The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.(b)

12 C. E. Gr. 552, 556. A tax levied and assessed against persons above the age of forty-five years, and therefore not liable to be drafted, to procure and pay volunteers to serve, and thus exempt from service those who are liable by law, is constitutional, *State, Ruckman v. Demarest*, 3 Vr. 528. An assessment for such purpose is not taking private property for private use, but for public use, *Ibid.* The constitutionality of the road act, authorizing lands to be taken without compensation, could not be questioned, *State v. Potts*, 1 South. 347. *In re Highway*, 2 Zab. 293, 307. *State, Hudson Co. v. Seymour*, 6 Vr. 47, 53. Private property cannot be taken for roads or streets without compensation, *State, Hudson Co. v. Seymour*, 6 Vr. 47. The Hudson Land Improvement Company hold their rights by special charter under which they have purchased land, laid out the same in lots and streets, and filed maps of the same. The legislature cannot alter and widen the streets, or vacate them, for the purpose of making them public highways, without providing compensation, and proceeding in the ordinary form of notification to all parties interested. Such action would be within the constitutional prohibition of taking private property for public use, and a disturbance of rights vested by express legislative sanction, *Ibid.* Query. Whether it is constitutional to grant the power to a turnpike company to take the land which the road occupied, for their own use, on obtaining the consent of a majority of the land owners without compensating such as do not consent, *Morgan v. Monmouth Plank Road Co.*, 2 Dutch. 99. An act of the legislature authorizing a turnpike company to build a turnpike on a public highway, after getting such highway vacated according to law, and providing that the company should pay to all owners of land over which the road passed, all damages, sustained by the construction of such turnpike road, also for all damages done to adjoining lands, and all materials taken therefrom, but providing no compensation for the value of the soil occupied by the road, is constitutional, *Wright v. Carter*, 3 Dutch. 76. If a road already formed and bridges already built be owned by an individual as private property, a public highway cannot be laid over them by surveys, so as to take the improvements for the use of the public. The word land, in the road acts of New Jersey and in the exception in the constitution, means land in its popular sense, without the improvements upon it, *In re Highway*, 2 Zab. 293. See *State v. Snedeker*, 1 Vr. 80, 83. The act incorporating the Camden and Atlantic Railroad Company gives no power to lay the said road across a public highway, without first making compensation to the owner of the soil, *State v. Camden and Atlantic R. R. Co.*, 4 Zab. 592. The authority to use a public highway for the purposes of a railroad, retaining the use of such highway for all ordinary purposes, subject only to the inconvenience of the railroad, is not taking of private property from the owner of the fee of the adjacent lands as is contemplated by the provision of the constitution. The easement of the highway is in the public, although the fee is technically in the adjacent owner. It is the easement only which is appropriated, and no right or title of the owner interfered with. If the legislature authorizes the company to take the highway, and appropriate it to its own use, by destroying the ordinary and legal right of the public to use it as a highway, then compensation must be provided; because when the rights of the public in it cease, then the use of it reverts to the person who holds the fee in the land. In such case the legislature authorizes to be taken something which belongs to the land owner, to wit, the use of the land, *Morris and Essex R. R. Co. v. Newark*, 2 Stock. 352. *All'y Gen. v. Morris and Essex R. R. Co.*, 4 C. E. Gr. 386; 5 C. E. Gr. 580. A grant of authority to lay and operate a railway in the streets of a city, without requiring the consent of owners of property along the route, is lawful. It does not conflict with that clause of the constitution requiring compensation to be first made, *Paterson Horse R. R. v. Paterson*, 9 C. E. Gr. 158. *Hinchman v. Paterson Horse R. R.*, 2 C. E. Gr. 75. That part of the land taken was part of a public street, does not affect the right of the owners to compensation, *Morris and Essex R. R. Co. v. Hudson Tunnel Co.*, 10 C. E. Gr. 364. *All'y Gen. v. Hudson Tunnel Co.*, 12 C. E. Gr. 176, 573. A private road, although open to the use of the public, is not a public highway, and therefore, not being within the exception in Art. 1, Sec. 13, of the constitution, private roads cannot now be laid out without providing compensation to the land owner, *Perrine v. Parr*, 2 Zab. 356. *Green, C. J.* A public street cannot be laid out longitudinally over the tow-path of a canal, without compensation, *State v. Newark*, 4 Dutch. 523. *Morris Canal Co. v. State*, 4 Zab. 62, 70. The ordinance of Camden regulating party-walls, is not unconstitutional. The land is not taken for public use, *Hunt v. Ambruster*, 2 C. E. Gr. 208. Nothing in a municipal charter can interfere with or impair the vested rights and privileges of any person or corporation whatever, except as to property taken for public use upon compensation, *State, Associates, &c. v. Jersey City*, 5 Vr. 32. *Plum v. Morris Canal Co.*, 2 Stock. 256. The charter of Newark authorizes a

street opened by an individual on his own lands, to be graded, &c., and the whole expense to be assessed upon the lands of such person, *State v. Dean*, 3 Zab. 335. The destruction of private property for public use, is taking it for public use within the meaning of the constitutional provision, *American Print Works v. Lawrence*, 1 Zab. 248. The right of eminent domain is the right of the government to appropriate private property to public use in case of necessity. It is this taking for public use, that is declared by the constitution of the United States and that of New York, shall not be done without compensation, *Hale v. Lawrence*, 1 Zab. 714. The right of necessity is the right of individuals, either singly or collectively, in case of overwhelming necessity to invade or destroy private property without positive law. When this right is exercised by government, through and at the discretion of its officers, regulated by law, it becomes the right of eminent domain, *Ibid.* The destruction of property for public benefit by an officer authorized by law to do it, is a taking for public use; and a statute authorizing it in New York, where the constitution requires compensation to be made for property taken for public use, without providing an adequate compensation, is unconstitutional and void, *Ibid.* The statute of New York authorizing the destruction of property in conflagrations is not unconstitutional; it is the mere regulation of the right of necessity and self-preservation, and not an authority to take private property for public use under the right of eminent domain, *S. C.*, 3 Id. 9, 590. *Randolph, J.* The destruction of private property, either total or partial, or the diminution of its value by the act of the government directly, and not merely incidentally affecting it, which deprives the owner of the ordinary use of it, is a taking within the constitutional provision which can only be exercised under the right of eminent domain, on just compensation made, *Trenton Water Power Co. v. Raff*, 7 Vr. 336. A destruction in the abatement of a public nuisance, for the public safety or health, is not a taking of private property for public use, without compensation or due process of law, in the sense of the constitution, *Manhattan Co. v. Van Keuren*, 8 C. E. Gr. 251. A statute authorizing the expense of improving a public street, to be assessed in the proportion of two-thirds on the property abutting on such street, and the remaining third on the public at large, is unconstitutional, *State, Agens v. Newark*, 8 Vr. 415. The state is the absolute owner of the land under all navigable water within its territorial limits, and such land can be granted to any one, either public or private, without making compensation to the owner of the shore, *Stevens v. Paterson R. R. Co.*, 5 Vr. 582. The bridges belonging to a county are public property, held for public use, and are not within the protection of the constitutional provision which forbids private property to be taken for public use without compensation. The legislature have power to direct in what manner such bridges shall be appropriated to public use; and may authorize them to be taken by a turnpike company for part of its road, without compensation, *Freeholders of Monmouth v. Red Bank Co.*, 3 C. E. Gr. 91. The legislature has the right to authorize the construction of a public work, which will interfere with the enjoyment of a public right of navigation, and that without compensation, *Sugar Refining Co. v. Jersey City*, 11 C. E. Gr. 247. The constitutional restriction that private property shall not be taken for public use without compensation being first made, does not apply to the power of taxation, *State, Agens v. Newark*, 6 Vr. 158, reversed, 3 Vr. 415. The constitutional restriction on taking private property without compensation, is confined to a single branch of the legislative authority—the right of eminent domain, and has no application to an assessment made under the police powers of the legislature, *State, Brittin v. Blake*, 7 Vr. 443. Double taxation is not unconstitutional, *State v. Branvin*, 3 Zab. 485, 494. *State v. Bently*, 3 Zab. 529, 542. *State v. Newark*, 1 Dutch. 315; 2 Id. 519. *State, Farmers Bank v. Cook*, 3 Vr. 347, 353. A tax upon the persons or property of A. B. and C. individually, whether designated by name or in any other way, which is in excess of an equal apportionment among the persons or property of the class of persons or kind of property subject to such taxation, is, to the extent of such excess, the taking of private property for public use without compensation, *State, Trustees v. Readington*, 7 Vr. 66. *State, Trenton Water Power Co. v. Parker*, 3 Vr. 426.

(a) What constitutes fraud so as to authorize an arrest, see *Ex parte Clark*, Spen. 648. *Kipp v. Chamberlin*, Spen. 556. *Van Wageningen v. Coc*, 2 Zab. 531. *Vankirk ads. Staats*, 4 Zab. 121. *McKernan v. McDonald*, 3 Dutch. 541. *Painter v. Houston*, 4 Dutch. 121. *Bowne ads. Titus*, 1 Vr. 340. *Perry v. Orr*, 6 Vr. 295.

(b) The court of chancery has no power, by injunction, to restrain any citizen from petitioning either branch of the legislature, upon any subject of legislation in which he is interested. Such restraint would be an unauthorized abridgment of his political rights, *Story v. Jersey City Plank Road Co.*, 1 C. E. Gr. 13.

19. This enumeration of rights and privileges shall not be construed to Saving clause. impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

1. Every white male citizen of the United States, of the age of twenty- Right of suffrage. one years, who shall have been a resident of this state one year, and of the county in which he claims his vote five months, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be elective by the people; *provided*, that no person in the military, naval or Proviso. marine service of the United States shall be considered a resident in this state, by being stationed in any garrison, barrack, or military or naval place or station within this state; and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector.(1)

2. The legislature may pass laws to deprive persons of the right of Bribery. suffrage who shall be convicted of bribery at elections.

ARTICLE III.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

1. The powers of the government shall be divided into three distinct Departments of departments—the legislative, executive and judicial; and no person or government. persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided.

ARTICLE IV.

LEGISLATIVE.

Section I.

1. The legislative power shall be vested in a senate and general Legislature. assembly.(a)

(a) The legislative power in all representative governments, and in New Jersey by the express words of the constitution, is vested in the legislature, and cannot be exercised directly by the people, or in any other mode than that prescribed by the constitution, and an act passed in any other way is void. *City of Paterson v. Society, &c., 4 Zab. 385.* The power of the legislature is not omnipotent; it has boundaries beyond which it may not pass. It cannot authorize private property to be taken for public use, without providing for a just remuneration; and in regard to those public rights which appertain to the citizens generally—a common property, it cannot make such disposition of them as entirely to defeat the citizens of their common rights. *Atty. Gen. v. Stevens, Sax. 369.* The legislature cannot divest itself or its successors, of its sovereignty, or extinguish the trusts committed to its custody for the public welfare. It not only may, but must determine in what manner that sovereignty shall be exercised. *Del. and Rar. Canal Co. v. Rar. and Del. Bay R. R. Co., 1 C. E. Gr. 321. Query.* Has the legislature the power to make a man a judge in his own case, *Schroder v. Ehlers, 2 Vr. 44.* See *Peck v. Freeholders of Essex, 1 Zab. 656. State, Winans v. Crane, 7 Vr. 394.* How far a private act of the legislature can settle a title, all the parties in interest petitioning therefor, *Crowall v. Shererd, 5 Wall. 268.* A statute simply granting unto B., lands of A., to which the state has no title, is void, because this is no part of the legislative power, which is the only power vested in the legislature, *Colgan v. McKeon, 4 Zab. 567.*

Delegation of power. The grant of power to a plank road or turnpike company to appropriate a public road to their use, upon obtaining the consent of a majority of the voters of the township, is not a delegation by the legislature of the law-making power to the people, *Morgan v. Mommouth Co., 2 Dutch. 99.* Conferring on a board of freeholders, or other body, the power to fix rates of ferriage is not a delegation of the legislative power, vested by the constitution in the legislature, *Freeholders of Hudson v. State, 4 Zab. 718.* A provision that a municipal charter shall not take effect until

approved by a majority of the inhabitants in the district incorporated, is not a delegation of legislative power, *Paterson v. Society, &c., 4 Zab. 385.* The unlawful retailing of intoxicating drinks or the keeping of tipping-houses, is not included in the category of criminal offences, the punishment of which cannot be by the legislature constitutionally, delegated to a municipality, as offences cognizable by it under the powers of police, *Howe v. Plainfield, 8 Vr. 146.* The legislature has the right to delegate to the board of managers of the geological survey, the discretion of determining the purpose for which the right of eminent domain should be exercised, *In re Lower Chatham, 6 Vr. 497.* The legislature cannot leave it to a board of commissioners to determine in what proportion the expense of laying out and opening a public avenue shall be imposed on the townships of a county or wards of a city, *State, Gaines v. Hudson Co. Commissioners, 8 Vr. 12.* The Chatham local option law declares the retailing of ardent spirits without license to be unlawful, and provides that no license shall be granted if a majority vote of the township is for "no license." Held, that the act is constitutional, *State, Sandford v. Common Pleas of Morris, 7 Vr. 72.*

Discretionary Power. Whether a scheme of improvement be of such public utility as to justify for its furtherance, a resort to the power of taxation and eminent domain, is a matter to be decided by the legislature, *Tide Water Co. v. Coster, 3 C. E. Gr. 518.* Whether the construction of a railroad in the street of a city, would operate beneficially or injuriously to the public right of way; whether it would prove a public benefit or a public nuisance, are questions to be determined by the legislature and by the city council, *Hinchman v. Paterson Horse R. R., 2 C. E. Gr. 75. Morris and Essex R. R. Co. v. Newark, 2 Stock. 352.* Where the right to alter or amend a charter, whenever the public good may require, is reserved, the legislature is the proper tribunal to determine when the right shall be exercised, *State v. Miller, 1 Vr. 359; 2 Id. 521.* Whether the interest of the people of the state would be best promoted by suffering a

(1) The statute disqualifying witnesses in force at the time of the adoption of the Constitution provided, "That no person who shall be convicted of blasphemy, treason, murder, piracy, arson, rape, sodomy or the infamous crime against nature, committed with mankind or with beast, polygamy, robbery, conspiracy, forgery or larceny of above the value of six dollars, shall in any case be admitted as a witness, unless he or she be first pardoned; and no person who shall be convicted of perjury, or of subornation of perjury, although pardoned for the same, shall be admitted as a witness in any case."

Qualifications of members.

2. No person shall be a member of the senate who shall not have attained the age of thirty years, and have been a citizen and inhabitant of the state for four years, and of the county for which he shall be chosen one year, next before his election; and no person shall be a member of the general assembly who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the state for two years, and of the county for which he shall be chosen one year, next before his election; *provided*, that no person shall be eligible as a member of either house of the legislature, who shall not be entitled to the right of suffrage.

Proviso.

Election.

Meeting.

3. Members of the senate and general assembly shall be elected yearly and every year, on the second Tuesday of October; and the two houses shall meet separately on the second Tuesday in January next after the said day of election, at which time of meeting, the legislative year shall commence; but the time of holding such election may be altered by the legislature.

Section II.

Of senators.

1. The senate shall be composed of one senator from each county in the state, elected by the legal voters of the counties, respectively, for three years.

To be classed.

2. As soon as the senate shall meet after the first election to be held in pursuance of this constitution, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, so that one class may be elected every year; and if vacancies happen, by resignation or otherwise, the persons elected to supply such vacancies shall be elected for the unexpired terms only.

Section III.

Assembly.

1. The general assembly shall be composed of members annually elected by the legal voters of the counties, respectively, who shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. The present apportionment shall continue until the next census of the United States shall have been taken, and an apportionment of members of the general assembly shall be made by the legislature at its first session after the next and every subsequent enumeration or census, and when made shall remain unaltered until another enumeration shall have been taken; *provided*, that each county shall at all times be

Apportionment.

Proviso.

draft, or levying a tax and paying bounties to volunteers and substitutes, is a question of which the legislature is the sole judge, and which under the constitution, they have full power and authority to decide, *State, Ruckman v. Demarest*, 3 Vr. 528. The mode of apportioning a tax for local improvements and the extent of territory that may be embraced within it, are necessarily matters of legislative discretion, *State, Sigler v. Fuller*, 5 Vr. 227. The legislature is the sole judge and arbiter to decide when streams within the boundaries of the state, in which the tide ebbs and flows, shall be considered as navigable, and maintained and protected as such, *Glover v. Powell*, 2 Stock. 211. They are the sole judges of the policy of an act, *State, Doyle v. Newark*, 5 Vr. 236, 243. The legislature alone has the power to release dedicated lands and discharge the public servitude in a street, *Hoboken Land Co. v. Hoboken*, 7 Vr. 541. The sovereign power may resume the grant of a franchise before it has been accepted, and rights acquired under it, *State, Brittin v. Blake*, 6 Vr. 209; 7 *Id.* 442. The legislature may, from time to time, give additional powers to corporations; and acts of the corporation, in pursuance of such authority, are binding, unless they conflict with vested rights or impair the obligation of contracts, *Gifford v. New Jersey R. R. Co.*, 2 Stock. 171. *Zabriskie v. Hackensack R. R. Co.*, 3 C. E. Gr. 178. *Delaware, &c., R. R. Co. v. Irick*, 3 Zab. 321. *Black v. Del. and Rar. Canal Co.*, 9 C. E. Gr. 464. The authority of the legislature to convert the property of an infant from real to personal, cannot be questioned; and where there is no breach of trust, or violation of good faith, or sinister design on the part of the guardian who applies for the law, the act cannot be impeached, *Snowhill v. Snowhill*, 2 Gr. Ch. 20. [Now prohibited by *Const. Art. IV., Sec. IV., Sec. VII.*] The commissioners appointed under the act of 1854, (*P. L.* 235), were authorized by the act of 1855 (*P. L.* 276), to proceed and make the assessments anew. The assessments under the act of 1854 were annulled and made void by the act of 1855, and the commissioners were directed to proceed anew to discharge the duties imposed upon them by the several acts. It was not requisite that they should be newly commissioned for the purpose. Without legislative authority they were *functi officio*, but it was competent for the legislature to clothe them with all

the authority they could derive from a new appointment, *Miller v. Craig*, 3 Stock. 175.

Municipalities. The grant of powers of local government to a municipal corporation is not a contract, but an exercise of legislative power; and the legislature may, at any time, take away, resume, or limit such power, *State v. Brown*, 3 Zab. 483. *Paterson v. The Society, &c.*, 4 Zab. 383. *Rader v. Road District*, 7 Vr. 273. *Jersey City v. J. C. and Bergen R. R. Co.*, 5 C. E. Gr. 360.

Assessments for local improvements are a part of the great legislative prerogative of taxation, Mayor, &c. ads. State, Batten, 3 Vr. 453. *State, Sigler v. Fuller*, 5 Vr. 227. *State, Agurs v. Newark*, 6 Vr. 168; 8 *Id.* 415. *State, Kohler v. Guttenburg*, 9 Vr. 419.

The laws regulating partition fences, party-walls, the enclosure of woodlands, the ditching and embanking of meadows, and other like police regulations, whether general or special laws, are an ancient branch of legislation. Their object is to regulate the management and enjoyment of property by the owners, or a majority of them, at their common expense, and they are a proper and constitutional exercise of legislative power, *Coster v. Tide Water Co.*, 3 C. E. Gr. 55, 518. *Berdan v. Riser Co.*, 3 C. E. Gr. 69; 6 Vr. 212. An act to authorize the drainage of marshy lands held to be constitutional, although the land owner may possibly be burdened in excess of the advantages actually realized from the work done under it. The project being entirely within the control of those to be affected by it, the presumption is that they will enter upon no undertaking which will not prove remunerative, *State, Brittin v. Blake*, 6 Vr. 208. *In re Lower Chatham*, 6 Vr. 497. Upon providing just compensation, the legislature have the power to pass an act directing the removal of mill-dams, on the ground that they are detrimental to the health of the surrounding country; and they may provide compensation by assessment upon property, and may designate the territory, or land, which shall be assessed for the purpose, *Miller v. Craig*, 3 Stock. 176. The legislature, under the power to make police regulations, may prohibit the retail of alcoholic stimulants, *State, Sandford v. Common Pleas of Morris*, 7 Vr. 72.

entitled to one member; and the whole number of members shall never exceed sixty.

Section IV.

1. Each house shall direct writs of election for supplying vacancies, occasioned by death, resignation or otherwise; but if vacancies occur during the recess of the legislature, the writs may be issued by the governor, under such regulations as may be prescribed by law. Supplying vacancies.
2. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide. Judge of elections, etc.
Quorum.
3. Each house shall choose its own officers, determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, may expel a member. Officers, rules, order.
4. Each house shall keep a journal of its proceedings, and from time to time publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal. Journals.
5. Neither house, during the session of the legislature, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. Adjournments.
6. All bills and joint resolutions shall be read three times in each house, before the final passage thereof; and no bill or joint resolution shall pass, unless there be a majority of all the members of each body personally present and agreeing thereto; and the yeas and nays of the members voting on such final passage shall be entered on the journal. Of passing bills, &c.
7. Members of the senate and general assembly shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the state; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session; and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the governor, they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, on the most usual route. The president of the senate and the speaker of the house of assembly shall, in virtue of their offices, receive an additional compensation, equal to one-third of their per diem allowance as members. Compensation.
Mileage.
8. Members of the senate and general assembly shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sitting 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. Privilege.

Section V.

1. No member of the senate or general assembly shall, during the time for which he was elected, be nominated or appointed by the governor or by the legislature in joint meeting, to any civil office under the authority of this state, which shall have been created, or the emoluments whereof shall have been increased, during such time. Appointment to office.
2. If any member of the senate or general assembly shall be elected to represent this state in the senate or house of representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the government of the United States, his seat in the legislature of this state shall thereby be vacated. What to vacate seat.
3. No justice of the supreme court, nor judge of any other court, sheriff, justice of the peace, nor any person or persons possessed of any office of profit under the government of this state, shall be entitled to a seat either in the senate or in the general assembly; but on being elected and taking his seat, his office shall be considered vacant; and no person Who ineligible.

holding any office of profit under the government of the United States shall be entitled to a seat in either house.

Section VI.

- Revenue. 1. All bills for raising revenue shall originate in the house of assembly; but the senate may propose or concur with amendments, as on other bills.
- Money. 2. No money shall be drawn from the treasury but for appropriations made by law.
- Credit. 3. The credit of the state shall not be directly or indirectly loaned in any case.
- Power to create debts. 4. The legislature shall not, in any manner, create any debt or debts, liability or liabilities, of the state, which shall singly or in the aggregate with any previous debts or liabilities at any time exceed one hundred thousand dollars, except for purposes of war, or to repel invasion, or to suppress insurrection, unless the same shall be authorized by a law for some single object or work, to be distinctly specified therein; which law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within thirty-five years from the time of the contracting thereof, and shall be irrevocable until such debt or liability, and the interest thereon, are fully paid and discharged; and no such law shall take effect until it shall, at a general election, have been submitted to the people, and have received the sanction of a majority of all the votes cast for and against it at such election; and all money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This section shall not be construed to refer to any money that has been, or may be, deposited with this state by the government of the United States.

Section VII.

- Divorce. 1. No divorce shall be granted by the legislature.
- Lotteries. 2. No lottery shall be authorized by this state; and no ticket in any lottery not authorized by a law of this state shall be bought or sold within the state.
- Attainder and ex post facto laws. 3. The legislature shall not pass any bill of attainder, *ex post facto* law,(a) or law impairing the obligation of contracts,(b) or depriving a

(a) Applies only to laws of a criminal or penal nature, *State, Bonney v. Bridgewater*, 2 Vr. 133, 135. *Den, Low v. Goldtrap*, *Coxe 272, 276, and note. Suydam v. Receivers, &c.*, 2 Gr. Ch. 114. An act declaring that in certain cases payments made in continental money, should be credited as specie. *Held, ex post facto*, and inoperative, *Taylor v. Reading*, 4 Hal. 444.

(b) A legislative charter is a contract between the state and the corporators, which the state cannot impair, *Zabriskie v. Hackensack R. R. Co.*, 3 C. E. Gr. 178. If certain rates of toll and fare be fixed by the charter of a company, a subsequent act, inflicting severe penalties on the company for exceeding the charter rates, is no violation of the contract of the charter, and is not unconstitutional, *Camden and Amboy R. R. Co. v. Briggs*, 2 Zab. 623. A lease of the corporeal works and property with the franchises to another corporation, for nine hundred and ninety-nine years, is such a novation of the undertaking as will impair the obligation of the contract, *Black v. Del. and Rar. Canal Co.*, 9 C. E. Gr. 455. "No irrevocable contract" can result from provisions in a charter which is made in terms subject to alteration, amendment, or repeal by the power granting it, *State, Morris and Essex R. R. Co. v. Miller*, 1 Vr. 368; 2 Id. 521. The reservation in a charter, that the state may, at any time, alter, amend, or repeal it, is a reservation made by the state for its own benefit, and is not intended to affect or change the rights of corporators as between each other. Nor can the state thereunder authorize one part of the stockholders, for their own benefit, at their mere option, to change their contract with the other part, *Zabriskie v. Hackensack R. R. Co.*, 3 C. E. Gr. 178. A grant of an additional franchise to a corporation, not affecting or impairing those before granted, does not alter or modify the charter, if it does not compel the corporation to exercise such franchise. Such grant can be made, whether the right to alter and modify be reserved or not. But in either case the corporation cannot be compelled to accept them, nor can part of the corporators accept them without the consent of all. *Ibid.* Lands purchased for the Brotherton Indians in this state, and exempted from taxation, cannot be afterwards taxed in the hands of their

vendees, *State v. Wilson*, *Pen.* 300; 7 *Cranch* 164. The clause in the charter of the proprietors of the bridges over the rivers Passaic and Hackensack, which declares that it shall not be lawful for any person or persons whatsoever to erect, or cause to be erected, any other bridge or bridges over or across the said river, constitutes a contract on the part of the state, which cannot constitutionally be annulled or abrogated, *Proprietors of Bridges v. Hoboken Land Co.*, 2 *Beas.* 81; 2 *Beas.* 503; 1 *Wall.* 116. It is immaterial whether the instrument by which the public faith is pledged is in its terms a contract, or in form a mere legislative enactment; in either event it is equally a contract within the meaning of the constitution, *Ibid.* The proprietors of the bridges over the rivers Passaic and Hackensack have, by contract with the state, the exclusive franchise of maintaining said bridges, and taking tolls thereon, and such contract is within the protection of the constitution, which declares that no law shall be passed impairing the obligation of contracts, *Ibid.* The regulations of insurance laws are not merely for the purpose of revenue—they impair the contract made in violation of them, at least so far as concerns the right of the foreign corporation to sue on it, *Columbia Fire Ins. Co. v. Kinyon*, 8 Vr. 33. The act of March 15th, 1866, investing the court of chancery with the power to order the property of an insolvent corporation, encumbered with mortgages or other liens, the legality of which is brought in question, &c., to be sold clear of encumbrances, is not in violation of the constitution. It neither impairs the obligation of contracts, nor deprives the creditor of any previously existing remedy, *Potts v. N. J. Arms Co.*, 2 C. E. Gr., 395, 516. *Martin v. Somerville Co.*, 3 *Wall. Jr.* 206. *Middleton v. N. J. West Line R. R. Co.*, 10 C. E. Gr. 306; 11 Id. 269. *Rader v. Southeastern District*, 7 Vr. 273. See *Potts v. Trenton Water Power Co.*, 1 *Stock.* 592. The seventh section of the act of 1854, assessing the tax on the mortgagor, where the mortgagee resides out of the township, is not unconstitutional as impairing the obligation of contracts, *Cook v. Smith*, 1 Vr. 387. An act of the legislature, the effect of which is to make a loan of money become due before the time fixed in the contract, cannot be enforced, *Randolph v. Middleton*, 11 C. E. Gr. 543.

party of any remedy for enforcing a contract which existed when the contract was made.(a)

4. To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.(b) Laws to be single.

5. The laws of this state shall begin in the following style, "Be it enacted by the Senate and General Assembly of the State of New Jersey." Enacting clause.

6. The fund for the support of free schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public schools, for the equal benefit of all the people of the state; and it shall not be competent for the legislature to borrow, appropriate or use the said fund or any part thereof, for any other purpose, under any pretence whatever. Education.

7. No private or special law shall be passed authorizing the sale of any lands belonging in whole or in part to a minor or minors or other persons who may at the time be under any legal disability to act for themselves. Rights of minors, etc.

8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years. Bank charters.

(a) A remedial statute, superseding a remedy in force at the time of making a contract, and giving the party satisfaction in a shorter time and more direct mode, does not deprive him of a previously existing remedy. *Potts v. N. J. Arms Co.*, 2 C. E. Gr. 395. Any legislation, the effect of which is to deprive a party of the power to resort to the person or any property which, as the law was when the contract was made, might have been taken or applied in satisfaction of his demand, is within the prohibition of the constitution, which prohibits the legislature from passing any law "depriving a party of any remedy for enforcing a contract which existed when the contract was made." But the legislature may make laws incidentally affecting the pursuit of remedies for enforcing existing contracts, such as regulating the admission of evidence, the course of practice, and similar acts, altering in mere matters of form the means of realizing the benefits of a contract, leaving the substance of the remedy unaffected. *Rader v. Southeastern District*, 7 Vr. 273. Riparian owners have a vested right in the benefits and advantages arising from their adjoining the water, of which they cannot be deprived without compensation. *Bell v. Gough*, 3 Zab. 624. *Neivus, Ogden and Potts, Justices*. The right of a plaintiff in execution to recover against a constable for neglect of duty in the service of an execution is a vested right, and a repeal of the statute rendering the constable liable will not defeat the recovery. *Hunt v. Gulick*, 4 Hal. 205. A subsequent statute cannot change or divest estates, vested before its passage. The act relative to trustees, passed April 1st, 1868, so far as intended to be retrospective, is inoperative. *Boston Franklin Co. v. Condit*, 4 C. E. Gr. 394. *Den, Berdan v. Van Riper*, 1 Harr. 7. *Den, Spachius v. Spachius*, 1 Harr. 172. *Den, James v. Dubois*, 1 Harr. 285. An act of the legislature, which in a particular case authorizes the surrender of a power, when simply collateral, or confirms such surrender when made, is constitutional and valid; it diverts or takes away no vested or settled rights. *Norris v. Thompson*, 4 C. E. Gr. 308; 5 Id. 489. The owners of adjacent lots have no vested right to require a turnpike company to bear the expenses of grading, &c., nor to have the road continued at its original grade. *State v. New Brunswick*, 1 Vr. 395. The supplement to the charter of the city of Hudson, of the 15th March, 1861, authorizing the common council to grant permission to any persons or corporations to lay railroad tracks through the streets, and run cars on them, under such licenses and conditions as the said council should think proper, and subject to revocation at pleasure. *Held*, to be prospective, and not to affect existing rights. *State v. Hoboken*, 1 Vr. 225. See *Jersey City, &c. Horse R. R. v. J. C. and Bergen R. R. Co.*, 6 Vr. 550.

(b) The act of the legislature of March 11th, 1868, entitled "an act to amend an act to incorporate the Town of Union, in the township of Union, in the county of Hudson, approved March 29th, 1864," and which act, after reciting an ordinance made by the councilmen of said Town of Union, entitled "an ordinance to authorize the construction of a sewer in the Hackensack plank road, from a point one hundred feet westerly of the Bergen line road, to a point three hundred sixty feet easterly from Durar street," passed April 30th, 1866, validates the said ordinance, and all the proceedings had under it, as fully as if every provision of the town charter had been complied with, and provides

that no *certiorari* shall be had or maintained to set aside the same. *Held*, not to be void under this provision of the constitution. *State, Walter v. Union*, 4 Vr. 350. The unity of the object must be sought in the end which the legislative act purposes to accomplish and not in the details provided to reach that end. *Ibid.* The degree of particularity which must be used in the title of an act, rests in legislative discretion. *Ibid.* There are many cases where the object might, with great propriety, be more specifically stated, yet the generality of the title will not be fatal to an act, if by fair intendment, it can be connected with it. *Ibid.* The township of Hammonton, in Atlantic county, was set apart from the townships of Mullica and Hamilton in 1865. The act was entitled "an act to incorporate the town of Hammonton, in the township of Mullica, in the county of Atlantic." *Held*, that the omission to mention the township of Hamilton in the title of the act was not material, and that the object of the act, as expressed in the title, was a sufficient compliance with the constitution. *State, Curry v. Elvins*, 3 Vr. 362. The act of 15th of April, 1868, entitled "a further supplement to the act entitled 'an act to amend and revise the charter of the city of Newark, approved March 11th, 1857,'" the first four sections of which refer to an assessment theretofore made by the defendants, for certain improvements made in said city, and which, on account of certain informalities and defects in the proceedings, could not be collected, and provides for a new assessment, in a manner therein set forth, and for other assessments of a like character; the fifth section confers certain powers upon the common council, in reference to laying out and opening streets and squares, and the sixth section fixes the time within which the tax lists shall be delivered to the receiver of taxes and auditor of accounts, and requires the receiver of taxes to deliver to the city treasurer the list of taxes, after the final return of the collector of arrears shall have been made in each year. *Held*, that the act had but a single object, which was to make an amendment or addition to the city charter, whereby certain defects found to exist therein might be remedied; that the object was sufficiently expressed in the title, and that the act does not contravene that section of the constitution which provides that every law shall embrace but one object, and that such object shall be expressed in the title. *State, Doyle v. Newark*, 5 Vr. 236. In the act of March 24th, 1862, (*P. L.* p. 271), the object of the law is not very clearly expressed, by the title, but it is single and for one purpose, and is not within this provision of the constitution. *Deegan v. Morrow*, 2 Vr. 136. The supplement to the Newark and Bloomfield R. R. Co. does not contravene the article of the constitution of this state which declares that every law shall embrace but one object, and that shall be expressed in the title, as the objects in the statute are parts of the same enterprise, and have a proper relation to one another. *Gifford v. New Jersey R. R. Co.*, 2 Stock. 172. The act entitled "an act relating to taxes to be paid by the Erie Railway Company for certain property owned, leased, used or occupied in this state," (*P. L.* 1870, p. 1168), relates to the property of the Long Dock Co. used or occupied by the said railway company, and therefore embraces but one object, which is sufficiently expressed in its title. *State, Long Dock Co. v. Haigh*, 7 Vr. 54.

- Compensation for private property. 9. Individuals or private corporations shall not be authorized to take private property for public use, without just compensation first made to the owners.
- Chancery powers. 10. The legislature may vest in the circuit courts, or courts of common pleas within the several counties of this state, chancery powers, so far as relates to the foreclosure of mortgages, and sale of mortgaged premises.

Section VIII.

- Oath of office. 1. Members of the legislature shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:
- “I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of New Jersey, and that I will faithfully discharge the duties of senator (or member of the general assembly, as the case may be), according to the best of my ability.”
- And members elect of the senate or general assembly are hereby empowered to administer to each other the said oath or affirmation.

ARTICLE V.

EXECUTIVE.

- Governor, how elected, and when. 1. The executive power shall be vested in a governor.^(a)
2. The governor shall be elected by the legal voters of this state. The person having the highest number of votes shall be the governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the vote of a majority of the members of both houses in joint meeting. Contested elections for the office of governor shall be determined in such manner as the legislature shall direct by law. When a governor is to be elected by the people, such election shall be held at the time when and at the places where the people shall respectively vote for members of the legislature.
- Term. 3. The governor shall hold his office for three years, to commence on the third Tuesday of January next ensuing the election for governor by the people, and to end on the Monday preceding the third Tuesday of January, three years thereafter; and he shall be incapable of holding that office for three years next after his term of service shall have expired; and no appointment or nomination to office shall be made by the governor during the last week of his said term.
- Qualifications. 4. The governor shall not be less than thirty years of age, and shall have been for twenty years, at least, a citizen of the United States, and a resident of this state seven years next before his election, unless he shall have been absent during that time on the public business of the United States or of this state.
- Compensation. 5. The governor shall, at stated times, receive for his services a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected.
- General powers. 6. He shall be the commander-in-chief of all the military and naval forces of the state; he shall have power to convene the legislature, whenever in his opinion public necessity requires it; he shall communicate by

(a) The governor, as the supreme executive of the state, alone, hath authority in the recess of the legislature, to fill a vacancy in the office of clerk of the inferior court of common pleas, *State v. Parkhurst*, 4 Hal. 427. The right to remove a state officer for misbehavior in office does not appertain to the executive office. Such act is judicial, and belongs to the court of impeachments, *State, Board of Commissioners v. Pritchard*, 7 Vr. 101. Certain police commissioners of Jersey City, appointed by statute, having been convicted of conspiracy to cheat the city, and the governor having declared their offices to be thereby vacated, and having appointed their successors, *Held*, that such executive action was illegal and void, *Ibid*. The governor will not be compelled to produce in court any paper or document in his possession; he will be allowed to withhold it, or any part of it, if, in his opinion, his official duty requires him to do so, *Thompson v. German Valley E. E. Co.*, 7 C. E. Gr. 111. The governor cannot be examined as to his reasons for not signing an

act of the legislature, nor as to his action in any respect regarding it. But he is bound to appear and testify as to the time an act was delivered to him, *Ibid*. Where the governor is required by law to issue a commission, in accordance with the determination of the board of county canvassers, the court will not award a *mandamus* directing a commission to be issued in conflict with such determination, although it affirmatively appear that the decision of the board of county canvassers was based upon illegal evidence, and is contrary to the truth of the case, *State v. The Governor*, 1 Dutch. 331. The court has no power to award a *mandamus*, either to compel the execution of any duty enjoined on the executive by the constitution, or to direct the manner of its performance, *Ibid*. A pardon expressly remitting a fine paid by a person convicted of a crime, will not entitle him to a return of it; the constitution of this state, not having given such power to the governor, and those acting with him, *Cook v. Freeholders of Middlesex*, 3 Dutch. 637.

message to the legislature at the opening of each session, and at such other times as he may deem necessary, the condition of the state, and recommend such measures as he may deem expedient; he shall take care that the laws be faithfully executed, and grant, under the great seal of the state, commissions to all such officers as shall be required to be commissioned.

7. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number of that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved of by a majority of the whole number of that house, it shall become a law; but, in neither house shall the vote be taken on the same day on which the bill shall be returned to it; and in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature by their adjournment prevent its return, in which case it shall not be a law.

Approve bills,
etc.

8. No member of congress, or person holding an office under the United States or this state, shall exercise the office of governor; and in case the governor, or person administering the government, shall accept any office under the United States or this state, his office of governor shall thereupon be vacant.

Who not eligible.

9. The governor, or person administering the government, shall have power to suspend the collection of fines and forfeitures, and to grant reprieves, to extend until the expiration of a time not exceeding ninety days after conviction; but this power shall not extend to cases of impeachment.

Fines, forfeitures,
reprieves.

10. The governor, or person administering the government, the chancellor, and the six judges of the court of errors and appeals, or a major part of them, of whom the governor, or person administering the government, shall be one, may remit fines and forfeitures, and grant pardons, after conviction, in all cases except impeachment.

Pardoning
power.

11. The governor and all other civil officers under this state shall be liable to impeachment for misdemeanor in office, during their continuance in office, and for two years thereafter.

Impeachment.

12. In case of the death, resignation, or removal from office of the governor, the powers, duties, and emoluments of the office shall devolve upon the president of the senate, and in case of his death, resignation, or removal, then upon the speaker of the house of assembly, for the time being, until another governor shall be elected and qualified; but in such case another governor shall be chosen at the next election for members of the legislature, unless such death, resignation, or removal shall occur within thirty days immediately preceding such next election, in which case a governor shall be chosen at the second succeeding election for members of the legislature. When a vacancy happens, during the recess of the legislature, in any office which is to be filled by the governor and senate, or by the legislature in joint meeting, the governor shall fill such vacancy, and the commission shall expire at the end of the next session of the legislature, unless a successor shall be sooner appointed; when a vacancy happens in the office of clerk or surrogate of any county, the governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified.

Provisions in
case of death,
etc.

Vacancies in
office.

13. In case of the impeachment of the governor, his absence from the state, or inability to discharge the duties of his office, the powers, duties and emoluments of the office shall devolve upon the president of the senate; and in case of his death, resignation or removal, then upon the speaker of the house of assembly for the time being, until the governor absent or impeached shall return or be acquitted, or until the disquali-

Provisions in
case of im-
peachment,
etc.

fication or inability shall cease, or until a new governor be elected and qualified.

In other cases.

14. In case of a vacancy in the office of governor from any other cause than those herein enumerated, or in case of the death of the governor elect before he is qualified into office, the powers, duties and emoluments of the office shall devolve upon the president of the senate or speaker of the house of assembly, as above provided for, until a new governor be elected and qualified.

ARTICLE VI.

JUDICIARY.

Section I.

Judiciary.

1. The judicial power shall be vested in a court of errors and appeals in the last resort in all causes, as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court; a supreme court; circuit courts, and such inferior courts as now exist, and as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, as the public good shall require.(a)

Section II.

Errors and appeals.

1. The court of errors and appeals shall consist of the chancellor, the justices of the supreme court, and six judges, or a major part of them; which judges are to be appointed for six years.

Judges classed.

2. Immediately after the court shall first assemble, the six judges shall arrange themselves in such manner that the seat of one of them shall be vacated every year, in order that thereafter one judge may be annually appointed.

Compensation.

3. Such of the six judges as shall attend the court shall receive, respectively, a per diem compensation, to be provided by law.

Clerk.

4. The secretary of state shall be the clerk of this court.

Appeals.

5. When an appeal from an order or decree shall be heard, the chancellor shall inform the court, in writing, of the reasons for his order or decree; but he shall not sit as a member, or have a voice in the hearing or final sentence.

Writs of error.

6. When a writ of error shall be brought, no justice who has given a judicial opinion in the cause in favor of or against any error complained of, shall sit as a member, or have a voice on the hearing, or for its affirmation or reversal; but the reasons for such opinion shall be assigned to the court in writing.

(a) The act authorizing certain of the justices of the supreme court, during term time, to sit apart for the hearing of common business, is not unconstitutional. It is not necessary that the whole, or a majority of the justices constituting that court, should hear or determine any particular cause, *Wood v. Fithian*, 4 Zab. 838. The phrase "as heretofore," if descriptive of the jurisdiction of this court, has no important significance, as the jurisdictions of all the constitutional courts, by necessary intendment, are established as they existed antecedently to the date of the constitution, *Harris v. Vanderveer*, 6 C. E. Gr. 424. The judges who concurred in the judgment below are excluded from sitting on the review, in the court of errors and appeals, although there had been no argument below, and no formal opinion delivered, *Gardner v. State*, 1 Zab. 557. But this does not exclude them from voting or expressing opinions on preliminary and collateral motions. The exclusion only applies to the hearing of the cause, *Engle v. Cromlin*, 1 Zab. 561. A law is unconstitutional which provides that no judgment of the supreme court shall be reversed by the court of errors unless a majority of those members of the court who are competent to sit on the hearing and decision of the case shall concur in such reversal, *Clapp v. Ely*, 3 Dutch. 622. History of the constitutional jurisdiction of circuit courts, *State, Dufford v. Decue*, 2 Vr. 302. The supreme court has the power to declare an act of the legislature void as being contrary to the constitution, *State v. Parkhurst*, 4 Hal. 427. The proper office of courts of justice is to adjudicate upon, and to protect and enforce the legal and equitable rights of parties litigant, as they are established by existing laws. It is no part of their appropriate function to determine in advance, whether a proposed law may or may not be enacted consistently with the rights of parties, or to interfere directly or indirectly with the course of legislation, *Story v. Jersey City Plank Road Co.*, 1 C. E. Gr. 13. The court will relieve against private acts of legislative bodies, obtained by fraud, *Tom-*

kins v. Tomkins, 3 Stock. 512. Acts of the legislature can only be set aside when some radical principle is violated, *State, Sigler v. Fuller*, 5 Vr. 227. *State, Doyle v. Newark*, 5 Vr. 236. And not because such act is unjust, *State v. Branin*, 3 Zab. 484. *Laird v. Wilson*, Pen. *280, *285. Or, impolitic, *State, Doyle v. Newark*, 5 Vr. 237, 243. *Greenville v. Seymour*, 7 C. E. Gr. 458. An act is not necessarily void because it contains an unconstitutional feature; it is operative for all purposes except that in which it comes in conflict with the fundamental law; and in that particular the difficulty may be removed or those affected by it may not choose to complain, in which case the courts would not interfere, *Morgan v. Monmouth Plank Road Co.*, 2 Dutch. 99. Whether the use for which property is taken is a public use, is a question of law, to be settled by the judicial power. Where the use is a public use, the legislature are the sole judges of the necessity or expediency of exercising the power of eminent domain in the particular case. But it cannot evade the constitutional limitation of its power, or make a private use a public one, simply by enacting that it is such, *Coster v. Tide Water Co.*, 3 C. E. Gr. 55. Where a bill charges that an act of the legislature is contrary to the constitution of the United States, in violation of the rights of the complainant, and illegal and void, the court will not, under the general prayer for relief, declare such act unconstitutional or void, *Smith v. Trenton Del. Falls Co.*, 3 Gr. Ch. 506. *Doughty v. Somerville and Easton R. R. Co.*, 3 Hal. Ch. 51. *Troth v. Troth*, 4 Hal. Ch. 237. The court will not enjoin the use of incorporeal rights by a corporation, *Stevens v. Paterson, &c. R. R. Co.*, 5 C. E. Gr. 126. It will restrain such corporation from turning the land owner out of possession while the question of assessment is pending in another court, *Metter v. Easton and Amboy R. R. Co.*, 10 C. E. Gr. 214. See *Morris and Essex R. R. Co. v. Hudson Tunnel Co.*, 10 C. E. Gr. 384. *Ross v. Elizabeth, &c. R. R. Co.*, 1 Gr. Ch. 422. *McIntyre v. Easton and Amboy R. R. Co.*, 11 C. E. Gr. 425.

Section III.

1. The house of assembly shall have the sole power of impeaching, by a vote of a majority of all the members; and all the impeachments shall be tried by the senate; the members, when sitting for that purpose, to be on oath or affirmation "truly and impartially to try and determine the charge in question, according to evidence;" and no person shall be convicted without the concurrence of two-thirds of all the members of the senate. Trial of impeachments.

2. Any judicial officer impeached, shall be suspended from exercising his office until his acquittal. Suspension in meantime.

3. Judgment in cases of impeachment shall not extend further than to removal from office, and to disqualification to hold and enjoy any office of honor, profit or trust under this state; but the party convicted shall nevertheless be liable to indictment, trial and punishment according to law. Effect of judgment.

4. The secretary of state shall be the clerk of this court. Clerk.

Section IV.

1. The court of chancery shall consist of a chancellor. Chancery.

2. The chancellor shall be the ordinary or surrogate-general, and judge of the prerogative court. Prerogative court.

3. All persons aggrieved by any order, sentence, or decree of the orphans' court, may appeal from the same, or from any part thereof, to the prerogative court; but such order, sentence, or decree shall not be removed into the supreme court, or circuit court, if the subject matter thereof be within the jurisdiction of the orphans' court. Appeal from orphans' court.

4. The secretary of state shall be the register of the prerogative court, and shall perform the duties required of him by law in that respect. Register.

Section V.

1. The supreme court shall consist of a chief justice and four associate justices. The number of associate justices may be increased or decreased by law, but shall never be less than two. Supreme court.

2. The circuit courts shall be held in every county of this state, by one or more of the justices of the supreme court, or a judge appointed for that purpose; and shall in all cases within the county, except in those of a criminal nature, have common law jurisdiction concurrent with the supreme court; and any final judgment of a circuit court may be docketed in the supreme court and shall operate as a judgment obtained in the supreme court from the time of such docketing. Circuit courts.

3. Final judgments in any circuit court may be brought by writ of error into the supreme court, or directly into the court of errors and appeals. Where judgment reviewed.

Section VI.

1. There shall be no more than five judges of the inferior court of common pleas in each of the counties in this state, after the terms of the judges of said court now in office shall terminate. One judge for each county shall be appointed every year, and no more, except to fill vacancies, which shall be for the unexpired term only. Common pleas.

2. The commissions for the first appointments of judges of said court shall bear date and take effect on the first day of April next; and all subsequent commissions for judges of said courts shall bear date and take effect on the first day of April in every successive year, except commissions to fill vacancies, which shall bear date and take effect when issued. Date of commissions.

Section VII.

1. There may be elected, under this constitution, two, and not more than five, justices of the peace in each of the townships of the several counties of this state, and in each of the wards, in cities that may vote in wards. When a township or ward contains two thousand inhabitants, Justices of the peace. How many.

- or less, it may have two justices; when it contains more than two thousand inhabitants, and not more than four thousand, it may have four justices; and when it contains more than four thousand inhabitants, it may have five justices; *provided*, that whenever any township not voting in wards contains more than seven thousand inhabitants, such township may have an additional justice for each additional three thousand inhabitants above four thousand.
- Proviso. 2. The population of the townships in the several counties of the state and of the several wards shall be ascertained by the last preceding census of the United States, until the legislature shall provide, by law, some other mode of ascertaining it.
- Population ascertained.

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

*Section I.***Militia officers.**

- Enrollment, etc. 1. The legislature shall provide by law for enrolling, organizing and arming the militia.
- Captains, etc. 2. Captains, subalterns, and non-commissioned officers shall be elected by the members of their respective companies.
- Field officers. 3. Field officers of regiments, independent battalions, and squadrons shall be elected by the commissioned officers of their respective regiments, battalions or squadrons.
- Brigadier-generals. 4. Brigadier-generals shall be elected by the field officers of their respective brigades.
- Major-generals. 5. Major-generals shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.
- Elections, etc. 6. The legislature shall provide, by law, the time and manner of electing militia officers, and of certifying their elections to the governor, who shall grant their commissions, and determine their rank, when not determined by law; and no commissioned officer shall be removed from office, but by the sentence of a court martial, pursuant to law.
- Commissions. Rank. Removal from office. When governor to appoint. 7. In case the electors of subalterns, captains, or field officers, shall refuse or neglect to make such elections, the governor shall have power to appoint such officers, and to fill all vacancies caused by such refusal or neglect.
- Brigade inspectors. 8. Brigade inspectors shall be chosen by the field officers of their respective brigades.
- Other officers. 9. The governor shall appoint the adjutant-general, quartermaster-general, and all other militia officers, whose appointment is not otherwise provided for in this constitution.
- Staff officers. 10. Major-generals, brigadier-generals and commanding officers of regiments, independent battalions, and squadrons, shall appoint the staff officers of their divisions, brigades, regiments, independent battalions, and squadrons respectively.

*Section II.***Civil officers.**

- Justices, chancellor and judges. 1. Justices of the supreme court, chancellor, and judges of the court of errors and appeals, shall be nominated by the governor and appointed by him, with the advice and consent of the senate.
- Term and compensation. The justices of the supreme court and chancellor shall hold their offices for the term of seven years; shall, at stated times, receive for their services a compensation, which shall not be diminished during the term of their appointments; and they shall hold no other office under the government of this state or of the United States.
- Judges of pleas. 2. Judges of the courts of common pleas shall be appointed by the senate and general assembly, in joint meeting.
- Term. They shall hold their offices for five years; but when appointed to fill vacancies, they shall hold for the unexpired term only.

3. The state treasurer, and the keeper and inspectors of the state prison shall be appointed by the senate and general assembly in joint meeting. They shall hold their offices for one year, and until their successors shall be qualified into office. Treasurer.
Keeper and inspectors of state prison.
4. The attorney-general, prosecutors of the pleas, clerk of the supreme court, clerk of the court of chancery, and secretary of state, shall be nominated by the governor and appointed by him with the advice and consent of the senate. Term.
Attorney-general, prosecutors, clerks.
- They shall hold their offices for five years. Term.
5. The law reporter shall be appointed by the justices of the supreme court, or a majority of them; and the chancery reporter shall be appointed by the chancellor. Reporters.
- They shall hold their offices for five years. Term.
6. Clerks and surrogates of counties shall be elected by the people of their respective counties, at the annual elections for members of the general assembly. Clerks and surrogates.
- They shall hold their offices for five years. Term.
7. Sheriffs and coroners shall be elected annually, by the people of their respective counties, at the annual elections for members of the general assembly. Sheriffs and coroners.
- They may be re-elected until they shall have served three years, but no longer; after which, three years must elapse, before they can be again capable of serving. How long re-elected.
8. Justices of the peace shall be elected by ballot at the annual meetings of the townships in the several counties of the state, and of the wards in cities that may vote in wards, in such manner and under such regulations as may be hereafter provided by law. Election of justices.
- They shall be commissioned for the county, and their commissions shall bear date and take effect on the first day of May next after their election. Commissions.
- They shall hold their offices for five years; but when elected to fill vacancies they shall hold for the unexpired term only; *provided*, that the commission of any justice of the peace shall become vacant upon his ceasing to reside in the township in which he was elected. Term.
Proviso.
- The first election for justices of the peace shall take place at the next annual town meetings of the townships in the several counties of the state, and of the wards in cities, that may vote in wards. First election.
9. All other officers, whose appointments are not otherwise provided for by law, shall be nominated by the governor and appointed by him with the advice and consent of the senate; and shall hold their offices for the time prescribed by law. Other officers.
10. All civil officers elected or appointed, pursuant to the provisions of this constitution, shall be commissioned by the governor. Commissions.
11. The term of office of all officers elected or appointed pursuant to the provisions of this constitution, except when herein otherwise directed, shall commence on the day of the date of their respective commissions; but no commission for any office shall bear date prior to the expiration of the term of the incumbent of said office. When term to commence.

ARTICLE VIII.

GENERAL PROVISIONS.

1. The secretary of state shall be *ex officio* an auditor of the accounts of the treasurer, and as such, it shall be his duty to assist the legislature in the annual examination and settlement of said accounts, until otherwise provided by law. Auditor.
2. The seal of the state shall be kept by the governor or person administering the government, and used by him officially, and shall be called the great seal of the state of New Jersey. Great seal.
3. All grants and commissions shall be in the name and by the authority of the state of New Jersey, sealed with the great seal, signed by the governor or person administering the government, and countersigned by the secretary of state, and shall run thus: "The State of New Jersey, to ———, greeting." All writs shall be in the name of the state; and all indictments shall conclude in the following manner, viz.: "against the peace of this state, the government and dignity of the same." Grants and commissions.
Writs and indictments.

When constitution to take effect.

4. This constitution shall take effect and go into operation on the second day of September, in the year of our Lord one thousand eight hundred and forty-four.

ARTICLE IX.

AMENDMENTS.

Amendments.

Submitted to two legislatures.

Special election to decide.

Proviso.

Any specific amendment or amendments to the constitution may be proposed in the senate or general assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months previous to making such choice, in at least one newspaper of each county, if any be published therein; and if in the legislature, next chosen as aforesaid, such proposed amendment or amendments, or any of them, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments, or such of them as may have been agreed to as aforesaid by the two legislatures, to the people, in such manner and at such time, at least four months after the adjournment of the legislature, as the legislature shall prescribe; and if the people, at a special election to be held for that purpose only, shall approve and ratify such amendment or amendments, or any of them, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments so approved and ratified shall become part of the constitution; *provided*, that if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly; but no amendment or amendments shall be submitted to the people by the legislature oftener than once in five years.

ARTICLE X.

SCHEDULE.

That no inconvenience may arise from the change in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared and ordained, that—

Common law and statutes.

Writs, actions, etc.

Charters.

Indictments.

Judicial powers.

Officers to continue in office.

Cases of death, etc.

State canvassers.

1. The common law and statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature; and all writs, actions, causes of action, prosecutions, contracts, claims and rights of individuals and of bodies corporate, and of the state, and all charters of incorporation, shall continue, and all indictments, which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts of law and equity, except as herein otherwise provided, shall continue, with the like powers and jurisdiction as if this constitution had not been adopted.

2. All officers, now filling any office or appointment, shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

3. The present governor, chancellor and ordinary or surrogate-general, and treasurer, shall continue in office until successors elected or appointed under this constitution shall be sworn or affirmed into office.

4. In case of the death, resignation or disability of the present governor, the person who may be vice president of council at the time of the adoption of this constitution shall continue in office and administer the government until a governor shall have been elected and sworn or affirmed into office under this constitution.

5. The present governor, or in case of his death or inability to act, the vice president of council, together with the present members of the legislative council and secretary of state, shall constitute a board of state canvassers, in the manner now provided by law, for the purpose of ascertaining and declaring the result of the next ensuing election for

governor, members of the house of representatives and electors of president and vice president.

6. The returns of the votes for governor, at the said next ensuing election, shall be transmitted to the secretary of state, the votes counted, and the election declared, in the manner now provided by law in the case of the election of electors of president and vice president. Governor's election.

7. The election of clerks and surrogates, in those counties where the term of office of the present incumbents shall expire previous to the general election of eighteen hundred and forty-five, shall be held at the general election next ensuing the adoption of this constitution; the result of which election shall be ascertained in the manner now provided by law for the election of sheriffs. Clerks, surrogates.

8. The elections for the year eighteen hundred and forty-four shall take place as now provided by law. Temporary provisions, etc.

9. It shall be the duty of the governor to fill all vacancies in office happening between the adoption of this constitution and the first session of the senate, and not otherwise provided for; and the commissions shall expire at the end of the first session of the senate, or when successors shall be elected or appointed and qualified.

10. The restriction of the pay of members of the legislature, after forty days from the commencement of the session, shall not be applied to the first legislature convened under this constitution.

11. Clerks of counties shall be clerks of the inferior courts of common pleas and quarter sessions of the several counties, and perform the duties, and be subject to the regulations now required of them by law, until otherwise ordained by the legislature. Clerks of counties.

12. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

Done in convention, at the State House in Trenton, on the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-four, and of the independence of the United States of America the sixty-eighth.

ALEXANDER WURTS,
President of the Convention.

WILLIAM PATERSON, *Secretary.*

THOS. J. SAUNDERS, *Assistant Secretary.*

Warren—P. B. Kennedy, Samuel Hibbler, Robert S. Kennedy.
Somerset—P. D. Vroom, Ferdinand S. Schenck, George H. Brown.
Hunterdon—Jonathan Pickel, David Neighbour, Peter I. Clark.
Middlesex—Moses Jaques, James Parker, Jos. F. Randolph, James C. Zabriskie.
Mercer—Jno. R. Thompson, Henry W. Green, R. S. Field.
Monmouth—George F. Fort, Bernard Connolly, Thomas G. Haight, Daniel Holmes.
Burlington—Moses Wills, J. J. Spencer, Wm. R. Allen, Jno. C. Ten Eyck, Chas. Stokes.
Camden—John W. Mickle, Abraham Browning.
Gloucester—Jno. R. Sickler, Charles C. Stratton.
Bergen—John Cassedy, Abr. Westervelt.
Hudson—Robt. Gilchrist.
Passaic—Elias B. D. Ogden, Andrew Parsons.
Sussex—Joseph E. Edsall, John Bell, Martin Ryerson.
Essex—Jos. C. Hornblower, D'd Naar, O. S. Halsted, Elias Vanarsdale, Wm. Stites.
Morris—Mahlon Dickerson, Francis Child, Ephraim Marsh, W. Nelson Wood.
Salem—Jno. A. Lambert, Richard P. Thompson, Alex. G. Cattell.
Cumberland—Wm. Belford Ewing, Joshua Brick, Daniel Elmer.
Cape May—Joshua Swain.
Atlantic—Jonathan Pitney.