

CONSTITUTION

OF THE

STATE OF NEW JERSEY,

AS AMENDED.

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, ratified by the people at an election held on the thirteenth day of August, anno domini one thousand eight hundred and forty-four, and amended at a special election held on the seventh day of September, anno domini one thousand eight hundred and seventy-five.

We, the people of the state of New Jersey, grateful to Almighty God 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 :

Preamble.

ARTICLE I.

RIGHTS AND PRIVILEGES.

1. All men are by nature free and independent, and have certain 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) Natural rights.
2. All political power is inherent in the people. Government is instituted 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. Political powers.
3. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience ; nor under any pretense 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. Rights of conscience.
Tithes.
4. There shall be no establishment of one religious sect in preference to another ; no religious test shall be required as a qualification for any office No religious establishment or test.

^(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 New Jersey, 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 enjoy-

ing property, guaranteed to everyone by the constitution. *Coster v. Tides 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. The right of suffrage is not an absolute right. No such right exists, unless specifically conferred by a constitution or a statute. It is a political right and does not flow from the declaratory clauses of the bill of rights. *Ransom v. Black*, 25 Vr. 446.

- or public trust ; and no person shall be denied the enjoyment of any civil right merely on account of his religious principles. (a)
5. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall 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 evidence to the jury ; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted ; and the jury shall have the right to determine the law and the fact. (b)
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.
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. (c)
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 defense. (d)
9. No person shall be held to answer for a criminal offense, 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
- Liberty of speech and of the press.
- Libels.
- Rights of jury.
- Security of persons and property.
- Search warrant.
- Trial by jury.
- Rights of persons accused.
- Criminal offenses, how charged.

(a) The fact that a party does not believe that God will punish perjury, does not render such party incompetent as a witness, when offered in his own behalf. *Percy v. Powers*, 22 Vr. 432. The statutory right of a party to testify in his own behalf, is a civil right, the enjoyment of which cannot, under our constitution, be denied to any person merely on account of his religious principles. *Id.*

(b) 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. This provision was not intended to affect the duty of the court, on prosecutions for libels, to decide all questions of law relating to the admission of testimony, and such other matters as are preliminary to the final submission of the case to the jury ; nor to affect its duty to instruct the jury respecting their legitimate promises in the decision of the cause, and respecting those general principles of the criminal law and of the law of libel which are of a technical nature. *Drake v. State*, 24 Vr. 28. This provision does not deprive the court of the right to express to the jury its opinions touching the character of the particular publication charged as libelous, and the motives and ends presented for its justification. *Id.* This provision enjoins upon the court the duty of admitting evidence and ends of the truth of the publication and the motives and ends of the defendant in publishing it ; and it declares and secures the right of the jury to decide for themselves with proper regard to the views of the court, whether the meaning and tendency of the publication are such as to bring it within the legal definition of a libel, whether it was privileged under common law rules, and whether it was true and published with motives which to them appear good and for ends which to them appear justifiable. *Id.*

(c) 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. *Scudder v. Trenton Del. Falls Co.*, 8 Sax. 696. *Howe v. Plainfield*, 8 Vr. 145. It does not extend to suits in chancery, prerogative or orphans' court. *Wood v. Tullman*, 10 Sax. 153, 158, *Kinsey, C. J.* Nor to summary proceedings in attachments for contempt of court. *State v. Doty*, 8 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. 282. 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. *McGee 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. *Bevens 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. 148. *Sparks v. Stokes*, 11 Vr. 487. *Greely v. Passaic*, 13 Vr. 429. *Shivers v. Newton*, 16 Vr. 469. *Carter Bros. v. Camden Dist. Court*, 20 Vr. 600. A trial by jury is not allowable on an information for profanity. *Johnson v. Barclay*, 1 Har. 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. *Hinchly v. Machine*, 3 Gr. 476. *Raphael v. Lane*, 27 Vr. 108. *Ten Eyck v. Farlee*, 1 Har. 348. A justice of the supreme court has power to strike out, as a sham plea, the general issue, accompanied by the statutory affidavit. If the plea is false, it is not an invasion of the right of trial by jury. *Coykendall v. Robinson*, 10 Vr. 98. There is no constitutional right to a trial by jury on appeal from the courts for trial of small causes, in cases where no jury was demanded below. *Wanser v. Atkinson*, 14 Vr. 571. The right to a trial by jury does not exist in a trial before the county circuits of contested election of county and township officers under "An act to regulate elections," section 101. *Conger v. Convery*, 23 Vr. 444. The provisions calling for a jury of six men to try the title to property in a justice's court is constitutional. *Berry v. Chamberlain*, 24 Vr. 483. In an action brought in a district court, where the matter in dispute is above the sum of \$200, a demand for a jury, made by the defendant at the proper time, deprives the court of jurisdiction to try the case otherwise than by a jury. *Clayton v. Clark*, 25 Vr. 589. Such a demand gives the defendant the right to a trial by jury without the prepayment of costs, or to have the action against him dismissed. *Id.* See *Raphael v. Lane*, 27 Vr. 108. A statute directing that a commission de inatitico inquitendo shall be executed before a jury of twelve men is constitutional. *De Hart v. Condit*, 6 Dick. 611. *Lindsay's Case*, 1 Dick. 358.

(d) An indictment charging murder in the language of the forty-fifth section of the criminal procedure act is constitutional and legal. *Graves v. State*, 16 Vr. 203. See *Hagerman v. State*, 25 Vr. 404. It is in the discretion of the court to limit the time to be occupied by counsel in addressing the jury, and unless that discretion is so exercised as practically to deny to the accused his constitutional right to have the assistance of counsel, it is not error. *Sullivan v. State*, 18 Vr. 151. The supplement to the crimes act of 1893 (P. L., p. 82), directing that if to an indictment for murder a prisoner shall plead guilty, such plea shall be disregarded and a plea of not guilty be substituted and the case tried before a jury, is constitutional. *State v. Genz*, 28 Vr. 459. The provision is favorable to the accused and does not deprive him of any right that is indefeasible. *Id.*

army or navy, or in the militia, when in actual service in time of war or public danger. (a)

10. No person shall, after acquittal, be tried for the same offense. (b) Acquittal.
All persons shall, before conviction, be bailable by sufficient sureties, Bail.
except for capital offenses, when the proof is evident or presumption great.

11. The privilege of the writ of habeas corpus shall not be suspended, Habeas corpus.
unless in case of rebellion or invasion the public safety may require it.

12. The military shall be in strict subordination to the civil power. (c) Military subor-

13. No soldier shall, in time of peace, be quartered in any house with- Quarterming
out the consent of the owner; nor in time of war except in a manner pre- soldiers.
scribed by law.

14. Treason against the state shall consist only in levying war against it, Treason.
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.

15. Excessive bail shall not be required, excessive fines shall not be Excessive bail,
imposed, and cruel and unusual punishments shall not be inflicted. &c.

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

(a) The filing of an information by the attorney-general on behalf of the state, in the nature of a *quo warranto*, is not unconstitutional. *Atty.-Gen. v. Del. and B. E. R. Co.*, 9 Vr. 282. "Without a legal presentment, no man can be tried for any heinous offense." *State v. Rockafellow*, 1 Hal. 332, 339, *Kirkpatrick, C. J.* A statute authorizing the prosecution of the offense of keeping a disorderly house by a city court, without an indictment found by a grand jury, is unconstitutional. *State v. Anderson*, 11 Vr. 224. Not so a statute authorizing a prosecution for the sale of ardent spirits without a license. *Id. Meyer v. State*, 12 Vr. 6. The constitutional rights of an accused are not infringed where two modes of preferring a criminal accusation and two modes of trial are provided by law—one by indictment and trial by jury, the other by a written accusation and trial by the court—and the option is given to the accused to have the accusation submitted to a grand jury with trial by jury, in case an indictment be found, or to submit to a trial on a written accusation, and by the court without a jury. *Edwards v. State*, 16 Vr. 419. See *Graves v. State*, 16 Vr. 203.

(b) 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 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. 381. 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. If a judgment in a criminal case is reversed on error, in consequence of an error committed by the trial judge in charging the jury, the first trial will not be a bar to retrial on the same indictment. *Smith and Bennett v. State*, 12 Vr. 598. The constitution of this state goes no further than to forbid the retrial of a person who had been acquitted. *Id.*

(c) 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. *Id.* Definition of martial law. *Id.*

(d) 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.*, *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. *Id.* 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. *Id.* 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. *Id.* The constitution protects property from arbitrary seizure or deprivation, not by legal process and on compensation made. *Bonaparte v. Camden and Amboy R. R. Co.*, *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. 51, 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. *Id.* 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. *Id.* For the purpose of reclaiming large tracts of lands, the rights of eminent domain and of taxation may be employed. *Id.* 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 E. 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 Turnpike 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 the 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 E. 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 E. R. Co.*, 5 C. E. Gr. 62. *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 E. R. Co.*, 4 C. E. Gr. 200. Under section 12 of the general railroad act (1873, p. 94), on proof of tender to the landowner 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. E. R. Co.*, 11 C. E. Gr. 464. This right only exists when expressly granted. *Browning v. Camden and Woodbury E. R. Co.*, 3 Gr. Ch. 47. *Mettler v. Easton and Amboy E. 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 Kar. Canal Co.*, 9 C. E. Gr. 455. See *Gifford v. N. J. E. 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 Kar. Canal Co.*, 3 Har. 300. *Society, &c., v. Morris Canal Co.*, *Sax.* 157. *Finsman v. Bel Del. E. 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

Imprisonment
for debt or militia
fine.

17. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in cases of fraud; nor shall any person be imprisoned for a militia fine in time of peace. (e)

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. *Id.* 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. *Cotwell v. Mays Landing Co.*, 4 C. E. Gr. 248. 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. *Id.* By the charter of "The Tide Water 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. *Oster v. Tide Water Co.*, 3 C. E. Gr. 518. See *State, Doyle v. Newark*, 5 Vr. 286. 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. *Id.* 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. *Id.* 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 landowners, 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. *Id.* 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, Mc Closkey v. Chamberlain*, 3 Vr. 388. *State, Gaines v. Hudson Co.*, 3 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. Curragan*, 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 center 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. Jagut*, 12 C. E. Gr. 552, 556. A tax levied and assessed against persons above the age of forty-five years, and therefore liable to be drafted to procure and pre-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. *Id.* 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. *Id. Query*—Whether it is constitutional to grant the power to a turnpike company to take the land which they require and bridges already built be owned by an individual as private property, a public highway cannot be laid over them by surveyors, 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. *Starr v. Camden and Atlantic R. E. 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 such 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 landowner, to wit, the use of the land. *Morris and Essex R. E. Co. v. Newark*, 2 Stock. 352. *Atty-Gen. v. Morris and Essex R. R. Co.*, 4 C. E. Gr. 386, 5 C. E. Gr. 530. 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. E. Co. v. Paterson*, 9 C. E. Gr. 158. *Hinchman v. Paterson Horse R. E. Co.*, 2 C. E. Gr. 76. 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. E. Co. v. Hudson Tunnel Co.*, 10 C. E. Gr. 331. *Atty-Gen. v. Hudson Tunnel Co.*, 12 C. E. Gr. 178, 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. I, Sec. 18, of the constitution, private roads cannot now be laid out without providing compensation to the landowner. *Perrine v. Farr*, 2 Zab. 356, *Green, C. J.* A public street cannot be laid out longitudinally over the towpath of a canal without compensation. *State v. Newark*, 4 Dutch. 529. *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. Ambuster*, 2 C. E. Gr. 298. 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. *Id.* 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. *Id.* 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, 580, *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 author-

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. (a) Right to assemble and petition.
19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation. County or municipal aid to private corporations.
20. No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever. Donations, &c, by state or municipal corporation.
21. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people. Saving clause.

ARTICLE II.

RIGHT OF SUFFRAGE.

1. Every male citizen of the United States, of the age of twenty-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 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 Right of suffrage.
- United States soldier, &c., not a resident.
Paupers, idiots and criminals.

izing 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*, 3 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 anyone, either public or private, without making compensation to the owner of the shore. *Stevens v. Paterson R. R. Co.*, 5 Vr. 532. 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. 188; reversed, 8 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, Brütin v. Blake*, 7 Vr. 448. Double taxation is not unconstitutional. *State v. Brant*, 3 Zab. 485, 494. *State v. Bentley*, 3 Zab. 529, 542. *State v. Newark*, 1 Dutch. 315, 2 Dutch. 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. By force of the constitution, a public corporation, exercising lawfully the state's right of eminent domain, is not required, unless the legislature had so ordered, to pay for the land taken, before taking possession of it; *contra*, when so taken by a private corporation. *Wheeler v. Essex Road Board*, 10 Vr. 291. *Lawrence v. Newark*, 9 Vr. 151. There is no power in the legislature to provide for the payment of the award in anything but money, nor to postpone the right of the landowner to receive the same after the award becomes a finality. *Butler v. Town Commissioners*, 10 Vr. 665. When the ratification of an assessment of damages by the landowner rests in the city, a right, at its will, to enter upon the land and possess it as a street, such a right constitutes a taking, within the sense of the constitutional provision forbidding the taking of private property for public use without compensation. *Pink v. Newark*, 11 Vr. 11. When land is so taken, a provision must be made for the payment of the damages within a reasonable limit. *Id.* When lands are sought to be taken for a public use, the public authorities, in the absence of any statutory provision to the contrary, have a reasonable time given them, after the ascertainment of the expense of the scheme, to decide whether to accept or refuse

the land at the price fixed. *O'Neill v. Freeholders of Hudson*, 12 Vr. 161. The constitutional provision requiring compensation to be made for private property taken for public use, does not apply to lands taken for streets within municipalities, except to the extent that such compensation is required by their respective charters. *Simmons v. Passaic*, 13 Vr. 619. The compensation so prescribed is the measure of the landowner's legal right, whether it be just or unjust. *Id.* See *Crane v. City of Elizabeth*, 9 Stew. 339. The portion of the forty-fifth section of the general road act which authorizes the overseer to enter upon private property and cut and make a drain, is void as being inconsistent with the constitutional provision. *Ward v. Peck*, 20 Vr. 42. The statute does not confer upon the justices and surveyors of the highways the right to take lands in the alteration or laying of roads. Lands for such purpose can only be taken by the public upon compensation made to the owner. *Amerman v. Briggs*, 21 Vr. 114. Under the provision that "private property shall not be taken for public use without just compensation, but land may be taken for public highways as heretofore, until the legislature shall direct compensation to be made," the practice of the state, continued from 1716 until after the adoption of the constitution in 1844, not to lay out roads of a greater width than four rods, is a limitation of the legislative powers to take lands for highways without compensation. *Mangles v. Chosen Freeholders*, 26 Vr. 88. The legislature may constitutionally provide that the public, in taking land for highways, may take the buildings on the land absolutely, or may take no interest whatever in the buildings. *Id.* An appeal to the circuit court in condemnation proceedings, in virtue of the statute entitled "An act to authorize a board of chosen freeholders of any of the several counties of the state to lay out, open, construct, improve and maintain a public road therein" (P. L. 1888, p. 397), prosecuted to conclusion, is a new means for the ascertainment of the amount to be paid for land taken and damage sustained, which supersedes the previous award by commissioners. *Bingle v. Freeholders*, 27 Vr. 661. The appeal is in all cases to be determined by a judgment based upon the verdict of a jury, and not, in any case, upon the award of the commissioners. *Id.* The construction of a horse railroad in a public street, is a legitimate use of the street, and not a taking of private property for public use, within the meaning of the constitution. *West Jersey E. R. Co. v. Cape May, &c., R. E. Co.*, 7 Stew. 164. Until what is just compensation had been ascertained in the manner directed by law, and the condemnation money paid, either actually or constructively, it is not within the power of the legislature to dispossess the landlord and put another person in possession of his land. *Johnson v. Baltimore and New York E. R. Co.*, 18 Stew. 454.

(e) What constitutes fraud so as to authorize an arrest, see *Ex parte Clark*, *Spen*. 648. *Kipp v. Chamberlain*, *Spen*. 558. *Van Wageningen v. Cor*, 2 Zab. 531. *Van Kirk ads. Stacks*, 4 Zab. 121. *McKernan v. McDonald*, 3 Dutch. 541. *Painter v. Houston*, 4 Dutch. 121. *Bovme ads. Thus*, 1 Vr. 340. *Perry v. Orr*, 6 Vr. 295.

(c) 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.

Suffrage during
military service.

unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector; and provided further, that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; (1) and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside. (a)

Bribery.

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

ARTICLE III.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

Departments of
government.

1. The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or 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. (b)

ARTICLE IV.

LEGISLATIVE.

Section I.

Legislature.

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

(a) The right to vote, secured by the constitution, can only become operative by legislation; and any reasonable legislative regulation for the purpose of securing an enforced secrecy of the ballot, is not a deprivation of a right to vote. *Ransom v. Black*, 25 Vr. 446. School trustees are officers, within the article of the constitution, so that if they are made elective by the people, only male citizens can vote for them. *Kimball v. Hendee*, 28 Vr. 307. A statute cannot confine the right to vote for road commissioners to the freeholders of the district nor extend it to females or to non-residents of the district. *Allison v. Blake*, 28 Vr. 6.

(b) So far as legislative judicature is concerned, it is expressly put an end to by this provision of the constitution; and after this plain circumscription of its sphere of action, there can be no pretense for a claim that the legislature can exercise any judicial function whatsoever, except such as is, in terms, allowed to it by the constitution itself. *Maxwell v. Goetschius*, 11 Vr. 885. An act of the legislature purporting to validate a sale made on partition proceedings by commissioners in a court having no jurisdiction either over the property or the owners, is nugatory, and such sale is void. *Id.* See *Colgan v. McKeon*, 4 Zab. 566. *State v. Winans, pros.*, v. *Crane*, 7 Vr. 394. *State v. Newark*, 3 Dutch. 185. When questions involving private interests have been settled by the final sentence of a judicial tribunal, the power of re-opening them is by our constitution confined to the judiciary and denied to the legislature. *Aldridge v. Essex Road Board*, 22 Vr. 166. A law which provides for a vote in each county on the application of certain legal voters, to determine whether or not any intoxicating or brewed liquors shall be sold within the county, and further provides that the circuit judge shall determine whether the circumstances have arisen which require an election and appoint the day for the election—*Held*, that the last provision was not a violation of this clause of the constitution. *Paul v. Gloucester County*, 21 Vr. 585. A statute authorizing the mayors of the respective cities to appoint, if such grant of power should have been sanctioned by the people, to municipal office, with a further provision that if a controversy should arise between the mayor's appointees and the old incumbents with respect to the title to the offices, such controversy should on application be decided in a summary way by the chief justice, to the extent of designating which persons should execute the offices respectively during the pending of the controversy. *Held*, that the function thus assigned to the chief justice was a judicial one, but that such power could not be vested in that officer, as the jurisdiction touching the right to public office was lodged in the supreme court, and could not be legislatively alienated; further held, that if the power in question was to be

regarded as executive, it could not be imparted to a judicial officer, under the constitution. *In re Cleveland*, 22 Vr. 311. The power of deciding questions of public policy which relate to the organization and extent of municipal corporations is one properly belonging, under our constitution, to the legislative department of the government, and therefore it cannot be exercised by any person or persons belonging to or constituting either the executive or the judicial department. *In re Ridgely Park*, 25 Vr. 238. A justice of the supreme court cannot decide within what territory the resident voters should be permitted to assume municipal existence and authority. *Id.*

(c) 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. 365. 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 Bar. Canal Co. v. Bar. 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. 686. *State v. 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. *Crozall v. Shervel*, 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. Monmouth Co.*, 2 Dutch. 99. Confering 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

(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."

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.

Qualifications of members.

Person not an elector, ineligible.

3. Members of the senate and general assembly shall be elected yearly and every year, on the first Tuesday after the first Monday in November; 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.

Election.

Meeting.

Altering time of election.

Section II.

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. (a)

Senate.

Term.

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

Classification.

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 offenses, the punishment of which cannot be by the legislature constitutionally, delegated to a municipality, as offenses cognizable by it under the powers of police. *Hove 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. Co.*, 2 C. E. Gr. 75. *Morris and Essex 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 Vr. 521. Whether the interest of the people of the state would be best promoted by suffering a 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, Truckman v. Demarest*, 3 Vr. 523. 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, Dogie 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 Vr. 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. Co.*, 2 Stock. 171. *Zabriskie v. Hackensack R. Co.*, 3 C. E. Gr. 178. *Delaware, &c., 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. 7, Par. 7.] Commissioners appointed under the act of 1854 (P. L. p. 235), were authorized by the act of 1855 (P. L. p. 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. Brantn*, 3 Zab. 485. *Paterson v. The Society, &c.*, 4 Zab. 385. *Rader v. Road District*, 7 Vr. 273. *Jersey City v. J. C. and Bergen 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. 458. *State, Sigler v. Fuller*, 5 Vr. 227. *State, Agens v. Newark*, 6 Vr. 188, 8 Vr. 415. *State, Kohler v. Guttenberg*, 9 Vr. 419. The laws regulating partition fences, party walls, the inclosure 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 landowner 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. (a) Whether the senate of the state be a continuous body or one to be organized into life annually, is purely a constitutional question, and therefore as such is to be decided by the courts. *State v. Rogers*, 27 Vr. 480. The senate of New Jersey is not a continuous body, but it expires annually, in the same sense that the general assembly does. *Id.* When a majority of the entire body of senators proceed to organize themselves into a senate, their methods and proceedings are not subject to judicial supervision. *Id.*

CONSTITUTION OF THE STATE

Vacancies. 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 entitled to one member : and the whole number of members shall never exceed sixty. (a)

Apportionment.

Number.

Section IV.

Vacancies. 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.

Membership, how determined. 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 ; (b) 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.

Quorum.

Officers and preservation of order. 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.

Journals. 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.

Adjournments. 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.

Passage of bills. 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. (c)

Recording votes.

Compensation of members. 7. Members of the senate and general assembly shall receive annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever. 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 allowance as members.

Compensation of officers.

Privilege. 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.

(a) The members of assembly apportioned to any county are required to be elected by the legal voters of the county, and an act of the legislature providing for the election of members apportioned to any county in assembly districts, whereby each qualified voter residing in an assembly district is allowed to vote for only one of the members apportioned to the county, is unconstitutional. *State v. Wrightson*, 27 Vr. 126. See *Gardner v. Newark*, 11 Vr. 297.

(b) The constitution provides that each house shall be the judge of the election, qualification and return of its own members. It is not competent for the legislature to confer the authority to make a judicial determination of these questions upon the courts. *Keavins v. Edwards*, 17 N. J. L. J. 51.

(c) See *Schermerhorn v. Jersey City*, 24 Vr. 116.

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

Section VI.

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. Revenue bills.
2. No money shall be drawn from the treasury but for appropriations made by law. Money drawn from treasury.
3. The credit of the state shall not be directly or indirectly loaned in any case. Credit of state.
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. Debts, limitation as to amount, and provision for payment.

Ratification by people.

Exception.

Section VII.

1. No divorce shall be granted by the legislature. Divorce.
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. Lotteries.
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 party Attainder, deprivation of remedy, &c.

(a) Applies only to laws of a criminal or penal nature. *State, Bonney v. Bridgewater*, 2 Vr. 133, 135. *Den, Low v. Goldtrap*, *Cove* 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. A statute which purports to authorize the prosecution, trial and punish-

ment of a person for an offense previously committed, and as to which all prosecution, trial and punishment were, at its passage, already barred according to pre-existing statutes of limitation, is unconstitutional and void. *Moore v. State*, 14 Vr. 203, reversing *S. C.*, 13 Vr. 208. (b) A legislative charter is a contract between the state and the corporators, which the state cannot impair. *Zabriskie v.*

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

Laws to embrace
but one object.

Amendments,
how made.

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) No law shall be revived or amended by reference to its

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 E. 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 East. 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 E. R. Co. v. Miller*, 1 Vr. 363, 2 Vr. 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. *Id.* 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 184. 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 rivers, 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. 31, 508, 1 Wall. 118. 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. *Id.* 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. *Id.* 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. 35. The act of March 18th, 1866, investing the court of chancery with the power to order the property of an insolvent corporation, incumbered with mortgages or other liens, the legality of which is brought in question, &c., to be sold clear of incumbrances, 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, 416. *Martin v. Somerville Co.*, 3 Wall. Jr. 206. *Middleton v. N. J. West Line E. R. Co.*, 10 C. E. Gr. 306, 11 C. E. Gr. 289. *Rader v. Southeastery 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. *Eandolph v. Middleton*, 11 C. E. Gr. 543. When a municipal corporation, having a general power to levy taxes to pay its debts, enters into a contract, the legislature cannot take away or substantially impair such taxing power, so far as relates to contracts. *Rahway v. Monday*, 15 Vr. 395. In such case, if the corporation refuses to exert its taxing power in favor of such contractor, a *mandamus* to compel such action is a right which cannot be taken away or impaired by subsequent legislation. *Id.*, affirming *S. C.*, 14 Vr. 333. The rule that the legislature does not impair the obligation of a contract by limiting or altering the modes of proceeding for enforcing it, provided the remedy be not withheld or embarrassed with conditions or restrictions which impair the value of the right, applies as well to irrevocable charters as to contracts between individuals. *United Companies v. Welch*, 18 Vr. 59. *State Board of Assessors v. M. & E. E. Co.*, 20 Vr. 193. The obligation of a contract which, when made, was unenforceable by reason of some irregularity, but which has been validated by reason of a subsequent law, is protected by the constitution to the same extent as if the contract had been strictly legal at first. *Rader v. Township of Union*, 15 Vr. 259.

(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. Southeastery 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. *Newton, 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 Har. 7. *Den, Spachius v. Spachius*, 1 Har. 172. *Den, James v. Dubois*, 1 Har. 285. An act of the legislature, which in a particular case authorizes the 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 C. E. Gr. 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 of 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. E. Co. v. J. C. and Bergen R. E. Co.*, 6 Vr. 550. The limitation in the act of March 23d, 1881 (P. L., p. 184), that suits on bonds should be commenced within six months from the date of the sale of mortgaged premises, is so connected with the other parts of the act as to be inseparable, and, as to antecedent obligations, is unconstitutional. *Morris v. Carter*, 17 Vr. 260. A statute is not obnoxious to constitutional provisions in its retrospective operation, unless it be an *ex post facto* law, or impairs the obligation of a contract, or deprives a party of a remedy which existed when the contract was made. *Baldwin v. City of Newark*, 2 Vr. 158. The power of the legislature to change the form of the remedy when no substantial right under the contract is impaired, is well settled. *Id.* In this state the legislature cannot destroy either the contract or the remedy of the creditor. *Scatne v. Belleville*, 10 Vr. 528. It is competent for the legislature to change the practice of the courts, and any legislation which merely affects the pursuit of remedies for enforcing contracts is not within the constitutional prohibition. *Toffey v. Atchison*, 15 Stev. 183.

(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 23d, 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 and 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. *Id.* The degree of particularity which must be used in the title of an act, rests in legislative discretion. *Id.* 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. *Id.* 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. Elwins*, 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 informalties and defects in the proceedings, could not be collected, and provides for a new assessment, in the 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 re-

title only, but the act revived, or the section or sections amended, shall be inserted at length. (a) No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act. (b)

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."

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 free 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 pretense whatever. The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years. (c)

General laws.

Act to be incorporated in full in supplement.

Enacting clause.

Educational fund.

Free public schools.

died; 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. 238. 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. Morrou*, 2 Vr. 138. 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. Hoaght*, 7 Vr. 54. The legislature may make the title of an act as restrictive as it pleases and may so frame the title as to preclude many matters being included in one act. *Grover v. Trustees of Ocean Grove*, 18 Vr. 389. In an act entitled "An act to provide for licensing boats, hacks and other vehicles by incorporated camp meeting associations or seaside resorts, and for the better government of the same," the legislature cannot include provisions authorizing the licensing, regulating or prohibiting of the manufacture or sale of liquor, such a subject not being within the legislative purpose as expressed in the title of the act. *Id.* In giving effect to this section of the constitution, the courts give paramount consideration to the general object of the act; the general purpose of the legislative scheme. The general object of the act being ascertained, the legislature may include in its provisions of a multifarious character, designed to carry into execution the legislative purpose, which are not inconsistent with or foreign to the general object of the act. *E. & A. R. Co. v. Central R. R. Co.*, 23 Vr. 267. A statute to be constitutional must embrace but one object, but the comprehension of the mere incidentals of such object does not infringe this requirement. *Rader v. Township of Union*, 10 Vr. 509. A statute which is entitled as relating to "streets," cannot embrace a power to lay out parks, but such power being severable from the body of the act, will not vitiate the entire law, but is itself to be discarded. *Id.* A statute was entitled "An act in relation to streets in Union township, in Union county," its object being to incorporate commissioners to lay out and take charge of the streets of a certain district. *Held*, that such statute was unconstitutional, as it did not express its object in its title. *Id.* The leading subject of a statute should be fairly expressed in the title, but the means or instruments by which the general purpose is to be attained, or matters merely incidental to it, are not a necessary part of the title. *Onderdonk v. Plainfield*, 13 Vr. 480. *Bumsted v. Govern*, 18 Vr. 368. The act establishing district courts, and granting to those courts jurisdiction exclusive of all other courts whatever, in all causes arising under the act, is not in contravention of the constitutional prohibition that "every law shall embrace but one object, and that shall be expressed in its title." *Payne v. Mahon*, 15 Vr. 213, reversing 12 Vr. 292. The constitutional mandate that the object of every law shall be expressed in its title, has given the title of an act a twofold effect. It has added additional force to the title as an indication of legislative intent in aid of the construction of a statute couched in language of doubtful import and it also operates as a constitutional limitation upon the enacting part of the law. The enacting part of a statute, however clearly expressed, can have no effect beyond the object expressed in the title. To maintain any part of such a statute those portions not embraced within the purview of the title must be excised; and if the superaddition to the declared object cannot be separated and rejected, the entire act must fall. *Dobbins v. Northampton*, 21 Vr. 496. The

title of an act of the legislature will not supply defects or omissions in the enacting part, but may be resorted to aid in ascertaining the legislative intent when the meaning is uncertain by reason of the use of general language of uncertain signification, or of words of doubtful import. *Evernham v. Hullit*, 16 Vr. 53. The title of an act is, in the constitutional sense, aptly expressive of its object, if it contain a mention of the subject-matter generally, together with a succinct indication of the legislation respecting it. *Mortland v. Christian*, 23 Vr. 521. By force of our constitutional provision requiring the object of every law to be expressed in its title, the title limits the sphere within which the enacting clauses can operate. *Allen v. Township of Bernards*, 28 Vr. 303. Cases in which the object of the law was held sufficiently expressed in the title: *State, Richards v. Hammer*, 18 Vr. 455. *Van Ripper v. Bergen Co. Savings Bank*, 15 Vr. 237. *Bergen Co. Savings Bank v. Township of Union*, 15 Vr. 599. *Bumsted v. Govern*, 18 Vr. 368. *Paul v. Gloucester Co.*, 21 Vr. 585. *Davis v. Cherry*, 24 Vr. 173. *In re Sewer Assessment of Passaic*, 25 Vr. 150. *Clark Thread Co. v. Freeholders of Hudson*, 25 Vr. 265. *Milburn v. South Orange*, 28 Vr. 254. *Newark v. Orange*, 28 Vr. 514. *Kirkpatrick v. New Brunswick*, 13 Stew. 46. *Stockton v. Central R. R. Co.* 5 Dick. 52. Laws in which the object of the law was not sufficiently expressed in the title: *Coutter v. New Brunswick*, 15 Vr. 58. *Shivers v. Newton*, 16 Vr. 469. *Daubman v. Smith*, 18 Vr. 200. *Jersey City v. Elmendorf*, 18 Vr. 283. *Lane v. State*, 20 Vr. 673. *Falkner v. Dorland*, 25 Vr. 409.

(a) In amending an act of the legislature it is unnecessary to embody in the new statute the old section as it originally stood, provided the section as amended is inserted at length. *Cobwell v. Chamberlain*, 14 Vr. 387. *Van Ripper v. Parsons*, 11 Vr. 127. *State v. Powder Mfg. Co.* 21 Vr. 75. *Evernham v. Hullit*, 16 Vr. 53. *Rahway Savings Inst. v. Rahway*, 24 Vr. 48. *Haring v. State*, 22 Vr. 366. *Montclair v. New York, &c. Railway Co.*, 18 Stew. 436. When the legislature, in order to express its will, resorts to amendatory legislation, it must be made to conform to the express requirements of the constitution in this respect, although the same effects might be produced by enactments not amendatory, but independent. *Board of Fire Commissioners v. Trenton*, 24 Vr. 566. There is nothing in the state constitution that prevents the operation of the common-law doctrine that when a repealer is itself repealed the original act is thereby revived. *Wallace v. Bradshaw*, 25 Vr. 175. reversing 21 Vr. 815. An addition to an existing law, although an improvement of it, is not in general such an alteration of it as to be an amendment of it in the sense of the constitutional clause requiring the sections amended to be inserted at length. *Bradley & Currier Co. v. Louing*, 25 Vr. 227. Nor is a clause declaring that a provision in an earlier law shall be applicable, without a recital of such provision, in all cases, unconstitutional. *Id.*

(b) An act of the legislature creating a penalty which, in its enacting clause, defines the offense and prescribes the penalty and is therefore a complete and perfect act of legislation in itself, is not unconstitutional, though it may provide for actions, or the means of carrying its provisions into effect, by a reference to a course of procedure established by other acts of the legislature. *Campbell v. Board of Pharmacy*, 16 Vr. 241. *S. C.*, 18 Vr. 347. *Allen v. Wyckoff*, 19 Vr. 90. *Christie v. Bayonne*, 19 Vr. 407. *Lozier v. Newark*, 19 Vr. 452. *In re Haynes*, 25 Vr. 24. See *Haring v. State*, 22 Vr. 366.

(c) The trustees for the support of public schools are the custodians of the fund set apart for the support of public schools, free by constitutional provision from even the control of the legislature, except in the designation of the mode in which the interest and dividends arising therefrom shall be applied for the support of public schools. For the purposes of the administration of the fund of which they are made custodians and of the rights and remedies upon or against the securities in which it is invested, the trustees are constituted the representatives of the state. *Amboy Dock and Improvement Co. v. Trustees, &c.*, 8 Stew. 182.

Special laws affecting lands of minors, &c.

Compensation for private property taken.

Notice of introduction of private bill.

Circuit court, foreclosure in.

Special laws.

Laying out roads.

Vacating roads.

Regulating municipalities.

Jurors.

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.

8. Individuals or private corporations shall not be authorized to take private property for public use, without just compensation first made to the owners.

9. No private, special or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The legislature, at the next session after the adoption hereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved. (a)

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. (b)

11. The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say: (c)

Laying out, opening, altering and working roads or highways. (d)

Vacating any road, town plot, street, alley or public grounds.

Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs. (e)

Selecting, drawing, summoning or impaneling grand or petit jurors.

(a) Whether the requisite notice has been given of an intention to apply for the passage of a private, local or special act, is a matter for judicial inquiry. *Freeholders of Passaic v. Stevenson*, 17 Vr. 173. *Ewing v. Trenton*, 28 Vr. 318.

(b) See *Dalrymple v. Ramsey*, 18 Steu. 494.
(c) This paragraph is plainly operative only on future legislation. It prohibits in the future, the adoption of any local or special legislation on the enumerated subjects, and enjoins the passage of general laws on such subjects. Its effect is upon what the legislature may do in the future, and not upon what has been done by it in the past. *North Ward National Bank v. Newark*, 10 Vr. 389. A general law as contradistinguished from one special or local, is a law that embraces a class of subjects or places, and does not omit any subject or place naturally belonging to such class. *Van Riper v. Parsons*, 11 Vr. 1. A law, framed in general terms, restricted to no locality, and operating equally upon all of a group of subjects, which, having regard to the purposes of the legislation, are distinguished by characteristics sufficiently marked and important to make them a class by themselves, is not a special or local law, but a general law. *Van Riper v. Parsons*, 11 Vr. 123. The distinction is to be observed between classifications which are merely illusory and those which are of such a nature, and founded on such qualities or characteristics, as make the objects to which the legislation applies a distinct class by itself. *Kuipers v. New Brunswick*, 13 Vr. 51. *Van Giesen v. Bloomfield*, 18 Vr. 442. When a statute is general in its terms, and its sole effect is to remove in some degree the differences existing in the various regulations of internal affairs of towns or counties, and to subject those affairs to the operation of a general law, then the statute is not special or local in a constitutional sense, although the pre-existing legal conditions were such that it would effect a change in only one town or county. *Bumsted v. Govern*, 18 Vr. 368; affirmed, 19 Vr. 612. An act of the legislature which in terms applies to all cities, must be construed to apply to all, and to repeal all inconsistent legislation. If any city is excepted from its operation, either by expression or by implication, it would be a special law, and therefore unconstitutional. The implication in such case will not be made that an exception is intended. The interpretation that validates the law will be adopted. *Bowyer v. Camden*, 21 Vr. 87. This inhibition in the case of delegated police power, but to forbid the passing of a law granted to another. *Paul v. Gloucester County*, 21 Vr. 585. General statutes passed in pursuance of this contract will repeal all inconsistent provisions in special laws, whether an express repealer be stated or not. *Haynes v. Cape May*, 23 Vr. 130. A law framed in general terms is not specialized by the fact that it excepts another general law from its operation. *Road Commission v. Harrington Township*, 26 Vr. 327.

(d) The act of March 27th, 1882, entitled "An act authorizing township committees in any township in this state not containing an incorporated city or borough wholly or in part within its limits, to pave or macadamize any street, &c., within said township," &c., although in the enacting part applicable to all the townships of this state, must be construed in subordination to its title, and is therefore special and local. *Dobbins v. Northampton*, 21 Vr. 498. The act authorizing cities on the ocean to lay out streets, drains or walks on the beach or ocean front is constitutional, the classification including all cities of the class. *Bowker v. Wright*, 26 Vr. 130. County roads within the control and supervision of the boards of chosen freeholders may be legislated for as a class, and may be excepted from the operation of an act relating to ordinary township roads without rendering the latter act special. *Road Commission v. Harrington Township*, 26 Vr. 327. *Noonan v. County of Hudson*, 23 Vr. 398.

(e) The prohibition as to the enactment of special and local laws in certain cases, applies to laws regulating the internal affairs of cities, as well as those of counties. *Van Riper v. Parsons*, 11 Vr. 1. *Bingham v. Camden*, 11 Vr. 156. *Pell v. Newark*, 11 Vr. 550. A law altering the boundaries of the wards of the city of Newark, and displacing from office certain of the officials and changing the time of their election, is a special and local law and unconstitutional. *Pell v. Newark*, 11 Vr. 550. So, also, a statute purporting to confer on all cities having a population of not less than 25,000 inhabitants, the power of issuing bonds to fund their floating debt. *Anderson v. Trenton*, 13 Vr. 496. A statute regulating the police departments in all the cities of the state is a general law and is constitutional. *New Brunswick v. Fitzgerald*, 19 Vr. 457, affirming S. C., 13 Vr. 479. A statute declared unconstitutional as a special and local law regulating the internal affairs of two cities, as it appeared that it applied only to such two cities, and that it never could apply to any others. *State, Richards v. Hammer*, 13 Vr. 435; affirmed, 15 Vr. 687. A city charter may be repealed by a special act of the legislature; such repeal does not regulate the internal affairs of a city; it extinguishes it, leaving no internal affairs to be regulated. *Worthley v. Steen*, 14 Vr. 542. *Tiger v. Morris Pleas*, 18 Vr. 631. A law giving the courts of common pleas the power to grant tavern licenses and restricted to cities, towns and counties by populations which indicate but three small towns in one county, without any apparent distinction which will account for such restriction, is unconstitutional. *Zeigler v. Gadde*, 15 Vr. 883. An act which provides that in boroughs of the third class, the licensing power shall rest in the court of common pleas, is unconstitutional. *Hightstown v. Glenn*, 18 Vr. 105. See *Tiger v. Morris Pleas*, 13 Vr. 631. *Glosson v. Trenton*, 19 Vr. 438. An act of the legislature providing for the election of one councilman at-large, in cities of less than 2,000 inhabitants, divided into not less than two nor more than three wards, and which now, by law, have twelve councilmen, is a special law regulating the internal affairs of cities, and unconstitutional. The three incidents on which a classification is attempted to be made are too unimportant and restrictive to form the basis for a general law. *Randolph v. Wood*, 20 Vr. 85. A proviso in an act, that "it shall not apply in and to cities commonly known as seaside and summer resorts" is within the constitutional prohibition against local and special laws. *Clark v. Cape May*, 21 Vr. 558. The office of the classification act of 1882, dividing cities into classes on the basis of population, is to provide a classification as a rule of construction for the convenience of municipal legislation. A statute framed in compliance with that act will be construed accordingly, and upon such a construction the question will arise whether the classification adopted is such in substance as to bring the statute within the category of general laws. *Warner v. Hoagland*, 22 Vr. 62. Population may be made the basis of classification in statutes relating to municipal bodies and their police powers, but such a classification cannot be made the means of eluding the constitutional interdiction of local or special laws where the classification is plainly illusory. *Id.* An act provided that the opening, construction, care, cleaning, &c., of roads, streets, &c., of public sewers and drains, should be vested exclusively in the common council or board of aldermen, and that all assessments then unpaid for street or sewerage improvements should be collected by the collector of taxes. The act applied to all cities of this state except cities of the first class. Cities of the first class, by the classification act of 1882, were those having a population exceeding 100,000. *Held*, that for the purposes of this legislation the classification was legitimate, and the act was constitutional. *Id.* An act provided that none of its provisions should take effect in any city until accepted by a majority of the legal voters of such city at a popular election. *Held*, (1) that this

Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed. (a)	Altering fees or salaries.
Changing the law of descent.	Changing descent.
Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever. (b)	Monopolies.
Granting to any corporation, association or individual, the right to lay down railroad tracks.	Railroads.
Providing for changes of venue in civil or criminal cases.	Changing venue.
Providing for the management and support of free public schools.	Free schools.
The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.	General laws. Corporations.
12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value. (c)	Taxation.

was not a delegation of legislative power; and (2) that the law was not made thereby a local or special law. *Id.* A statute giving to the mayors, respectively, the power to appoint the principal municipal officers, and providing that such act should go into effect in such cities wherein it was accepted at a popular election, held to be constitutional. *In re Cleveland*, 22 Vr. 319. There is no constitutional interdiction of a general act that may by possibility produce local results. *Id.* Nor does such general act become special or local by reason of its limiting the time within which it may be accepted by the respective cities. *Id.* An act which provides that, when any board of chosen freeholders shall deem it for the best interests of their county to construct a public road extending through such county, it shall be lawful for them to submit to a vote of the legal voters of said county the question whether said road shall be laid, is constitutional. *Noonan v. Freeholders*, 22 Vr. 454; affirmed, 23 Vr. 398. Population may be made the basis of classification in a statute relating to counties of this state and their internal affairs, in cases where the legislative object is one naturally incident to population. *Morland v. Christian*, 23 Vr. 521. The alteration of the wards of a city by special legislation is unconstitutional. Such alteration is likewise unconstitutional, whether the same is effected by one statute or by the joint operation of two going into force successively. *Dempsey v. Newark*, 24 Vr. 4. The act of March 9th, 1891 (P. L., p. 101), which provides that "no person now holding an appointive position in any city or county of this state, and receiving a salary from such city or county, who is an honorably-discharged soldier or sailor having served in the war of the rebellion, shall be removed from such position except for cause," being limited to those members of the designated body holding office at the time of the passage of this act, is void, it being a special law, in that it fails to include within its provisions all the members which constitute the selected group or class. *Pierson v. O'Connor*, 25 Vr. 36. The "Act for the classification of cities of this state," &c., in distinguishing classes of cities by population, means population as determined by an official enumeration officially promulgated. *In re Sewer Assessment of Passaic*, 25 Vr. 156. Population is a proper basis for the classification of municipalities with respect to laws that establish boards to manage streets and the public water works. *In re Haynes*, 24 Vr. 6. *Owens v. Fury*, 26 Vr. 1. Population is a proper basis for a classification of cities with respect to the establishment of police courts, as a difference of population calls for a difference of police regulation. *Matheson v. Cammado*, 26 Vr. 4. It is for the legislature to delineate such classes, and if such act be not plainly elusive of constitutional restrictions it cannot be judicially interfered with. *Id.* Classification of municipal bodies upon the basis of their population at a given time, cannot be used as a means of designating particular cities to the exclusion of others that may acquire the same characteristics. *Bennett v. Trenton*, 26 Vr. 72. The act entitled "An act concerning the maintaining of racecourses in this state, and to provide for the licensing and regulating the same" (P. L., 1898, p. 28), is a special law, regulating the internal affairs of towns and counties. *Alexander v. City of Elizabeth*, 27 Vr. 71. Cities may be constitutionally classified on the basis of population, for the purpose of prescribing a limit to the size of the wards. *Wood v. Atlantic City*, 27 Vr. 232. The act concerning cities of the first class (P. L., 1891, p. 475), which purports to empower the mayor to fill vacancies in the common council of the city, is rendered special by the provision which limits its operation to those cities of the first class whose charters provide for a special election to fill such a vacancy and is unconstitutional. *Parker v. City of Newark*, 28 Vr. 83. This special limitation does not become unimportant because it does not exclude any city now standing in the first class, since it will exclude cities which may grow into the class. *Id.* A local and special law "regulating the internal affairs of a town and county" is not unconstitutional if it became operative before the adoption of the constitutional provision forbidding such laws. *Kirkpatrick v. New Brunswick*, 13 Steu. 46. See *Atlantic City Water Works v. Consumers' Water Co.*, 17 Steu. 427. Acts held to be general and not within the constitutional prohibition in *State v. Borough of Clayton*, 24 Vr. 277. *Lewis v. Moore*, 25 Vr. 121. *Baker v. Delaney*, 26 Vr. 9. *Oler v. Ridgway*, 26 Vr. 10. *McLean v. Gibson*, 26 Vr. 11. *McLaughlin v. Newark*, 28 Vr. 298. *Cox v. Truitt*, 28 Vr. 635.

Acts declared special and local and therefore unconstitutional in *Township of Lodi v. State*, 22 Vr. 402. *Harris v. Mullica Township*, 22 Vr. 412. *State v. Somers Point*, 23 Vr. 32. *Heifer v. Simon*, 24 Vr. 551. *Dufford v. Staats*, 25 Vr. 286. *Stahl v. Trenton*, 25 Vr. 444. *Tyler v. Plainfield*, 25 Vr. 529. *Tetraull v. Orange*, 26 Vr. 99. *Wain v. Beverly*, 26 Vr. 544; affirmed, 28 Vr. 143. *Loucks v. Bradshaw*, 27 Vr. 1. *Goldberg v. Dorland*, 27 Vr. 364. *Wilson v. Trenton*, 27 Vr. 469.

(a) The act of the legislature of March 14th, 1879 (P. L., p. 349), which enacts that wherever an annual salary is now authorized by law to be paid to any law or president judge, such judge shall receive no *per diem* allowance, was within the power of the legislature to pass, and the judges described therein are not entitled to any *per diem* compensation since its passage. *Skinner v. Collector*, 13 Vr. 407. The legislature is forbidden by the constitution from increasing or decreasing the allowance due the secretary of state during his term of office, by an act applicable to him alone, such an act being a special law, and as such unconstitutional. *State v. Kelsey*, 15 Vr. 1. The "Act to provide for the payment of fixed annual salaries to the several prosecutors of the pleas of this state," passed March 12th, 1880, is a special law and does not govern the compensation of a prosecutor whose term of office commenced before the passage of the act. *Woodruff v. Freeholders of Passaic*, 13 Vr. 583. Salaries of the prosecutors of the pleas must be fixed by general and not special laws. *Freeholders of Passaic v. Stevenson*, 17 Vr. 173. *Gibbs v. Morgan*, 12 Steu. 126.

(b) The right to plant oysters on the lands of the state for the sole use of the occupant, is a privilege, and, inasmuch as it excludes all others from taking them, it is an exclusive privilege which cannot be granted by special, local or private laws. *State v. Post*, 26 Vr. 204. The act of the legislature entitled "An act concerning the maintaining of racecourses in this state, and to provide for the licensing and regulating of the same" (P. L., 1898, p. 28), held to be a special law granting to corporations, associations or individuals exclusive privileges, immunities or franchises, and is unconstitutional. *Alexander v. City of Elizabeth*, 27 Vr. 71. See *Delaware Bay and Cape May R. E. Co. v. Markley*, 18 Steu. 142.

(c) This paragraph executed itself. It required no legislation to enforce it, and went into effect immediately on the adoption of the amendments, and operated as an abrogation of all special laws for assessing property for taxes. In the assessment of taxes thereafter, property was required to be assessed under the tax law then in force, which in all respects conformed to the constitutional requirement as to the valuation of property for the purposes of taxation. *North Ward Nat. Bank v. Newark*, 10 Vr. 340; affirmed, 11 Vr. 558. *Kirkpatrick v. New Brunswick*, 13 Steu. 46. *Trustees of Public Schools v. City of Trenton*, 3 Steu. 667. This constitutional provision requires and is satisfied by such regulations as should impose the same percentage of its actual value upon all taxable property in the township for township purposes, in the county for county purposes, and in the state for state purposes. *Stratton v. Collins*, 14 Vr. 562. The legislature cannot bestow upon the common council of a city the power to establish taxing districts within the city narrower in extent than the city limits. *Morgan v. Comptroller of Elizabeth*, 15 Vr. 671. *Baldwin v. Fuller*, 10 Vr. 676. *Aurayansen v. Hackensack*, 16 Vr. 113. *Taylor v. Smith*, 21 Vr. 101. *Freeland v. Jersey City*, 14 Vr. 135, 638. *Culver v. Jersey City*, 16 Vr. 256. The act of 1869, which provides for the taxation of personal property, where found, in the county of Hudson and some other counties, was rendered nugatory by this provision. *Rankin v. Love*, 17 Vr. 132. *Marphy v. Trenton*, 18 Vr. 82. The act of the legislature "for the taxation of railroad and canal property," approved April 10th, 1884, is not in contravention of this provision of the constitution. *State Board of Assessors v. Central R. E. Co.*, 19 Vr. 146. The constitutional provision does not take away from the legislature the power of selecting the subjects of taxation; but it requires that all the members of the class selected shall be included in the taxing law, and that the rule applied thereto shall be uniform as to the whole of the class, and that the assessment shall be made at the true value of the property constituting the class; it is not in conflict with the constitutional requirement. *Id.* The constitutionality of a law which taxes a class of property separately is to be determined in the same

CONSTITUTION OF THE STATE

Section VIII.

1. Members of the legislature shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation :
 Oath of members. "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.

Oath of officers. 2. Every officer of the legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation : "I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of ———, to the best of my ability and understanding ; that I will carefully preserve all records, papers, writings, or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law."

ARTICLE V.

EXECUTIVE.

Executive.

Election.

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.

Ineligibility.

Appointments.

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.

way in which it would be determined if the property taxed were the only property taxed in the state. *Id.* The power of the legislature to fix the boundaries of municipal corporations and to select classes of property within those limits for taxation for the public needs of such municipality is supreme, subject only to the constitutional requirement of uniformity and generality in the exercise of such power. *Balky v. Manasquan*, 24 *Vr.* 162. This provision abrogates all prior, special or local laws exempting property from taxation, unless they constitute irrepealable contracts. *Newark, &c., Horse Car R. R. Co. v. Clark*, 24 *Vr.* 332. *Sisters of St. Elizabeth v. Chatham*, 22 *Vr.* 89. An exemption from taxation for all property of savings banks, except real estate purchased under foreclosure, is not the exemption of an entire class of property and is therefore contrary to the constitutional provision and void. *Trenton Savings Fund v. Richards*, 23 *Vr.* 156. Water rents assessed on vacant lots in Jersey City under its charter, at rates adopted by its municipal board of works, in its discretion, and without regard to special benefits or valuations, are illegal. *Provident Ins. Co. v. Allen*, 10 *Stew.* 36. A city charter limited to four years the time a tax should be a lien on the land assessed, and the general tax law to two years, *Held*, that the constitutional amendment "that property should be assessed for taxes under general laws according to its true value," did not apply to the city's lien as regulated by the charter. *Baldwin v. Elizabeth*, 15 *Stew.* 11. The power of the legislature to impose taxes on persons, property, business and franchises is unlimited, save only by such restrictions upon the exercise of that power as are found in the organic law, or such as are inherent in the nature of the subject. *Standard Underground Cable Co. v. Attorney-General*, 1 *Dick.* 270. The fourth section of the act (Rev. Stat., p. 1017), which imposes a tax upon manufacturing companies of this state, not transacting their business in this state, is not a violation of this paragraph of the constitution. *Id.* *Pipe Line Co. v. Berry*, 24 *Vr.* 212. *Honduras Co. v. Board of Assessors*, 25 *Vr.* 378.

(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.* 447. 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. Patchard*, 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. *Id.* 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 R. R. 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. *Id.* 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. *Id.* 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.

4. The governor shall be not 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. Qualifications.

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. Compensation.

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, or the senate alone, whenever in his opinion public necessity requires it; he shall communicate by 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. General powers.

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. If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money. Veto of bills.

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. Nor shall he be elected by the legislature to any office under the government of this state or of the United States, during the term for which he shall have been elected governor. Objection to part of bill.

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. Incompatible offices.

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, Fines, forfeitures, reprieves.

Exception.

Pardons, and remissions of fines.

shall be one, may remit fines and forfeitures, and grant pardons, after conviction, in all cases except impeachment.

Impeachment. 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.

Death, resignation or removal of governor. 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 the clerk or surrogate of any county, the governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified. (a)

Vacancies, what filled by governor. 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 disqualification or inability shall cease, or until a new governor be elected and qualified.

Provisions in case of impeachment, &c. 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.

Vacancy in other cases.

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. (b)

(a) The governor may, in the recess of the legislature, make an appointment to fill an office temporarily, where the vacancy first began during the session of the legislature. *Fruits v. Kuhl*, 22 Vr. 191.

(b) 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 intent, 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. Deane*, 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. 18. The court will relieve against private acts of legislative bodies, obtained by fraud. *Tomkins 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. 238. And not because such act is unjust. *State v. Branin*,

Section II.

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| 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. | Errors and appeals.
Term. |
| 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. | Classification. |
| 3. Such of the six judges as shall attend the court shall receive, respectively, a per diem compensation, to be provided by law. | Compensation. |
| 4. The secretary of state shall be the clerk of this court. | Clerk. |
| 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. | Appeals.
Who may sit. |
| 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 affirmance or reversal; but the reasons for such opinion shall be assigned to the court in writing. | Writs of error, who may sit. |

Section III.

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| 1. The house of assembly shall have the sole power of impeaching by a vote of a majority of all the members; and all 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. | Impeachment and trial.
Conviction. |
| 2. Any judicial officer impeached shall be suspended from exercising his office until his acquittal. | Suspension during trial. |
| 3. Judgment in cases of impeachment shall not extend farther 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.
Indictment. |
| 4. The secretary of state shall be the clerk of this court. | Clerk. |

Section IV.

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| 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 | Appeal from orphans' court.
Certiorari. |

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 landowner 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. Under this constitutional guarantee, the powers which inhere in the supreme court at the formation of the constitution must be unassailable by legislation. *Traphagen v. Township of West Hoboken*, 10 Vr. 232. District courts are inferior courts, which the legislature is empowered to establish, alter or abolish, at its discretion, as the public good may require; and if, in legislative discretion, the court is abolished, the term of service of its officers will thereby be terminated. *Budgers v. New Brunswick*, 13 Vr. 51. A writ of error will not go directly from the court of errors to the over and terminer. *Enries v. State*, 18 Vr. 140. The legislature cannot sanction such a proceeding, as it is one of the prerogatives of the supreme court to exercise, in the first instance, jurisdiction in such cases. *Id.* The legislature having the right under this article of the constitution to abolish the orphans' court, may authorize any questions of fact arising in such court to be certified into the circuit for trial. *Embley v. Hunt*, 2 Stev. 306.

the supreme court, or circuit court, if the subject-matter thereof be within the jurisdiction of the orphans' court. (a)

Register.

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.

Section V.

Supreme court.

Number.

Circuit courts.

Jurisdiction.

Docketing judgments.

Where judgment reviewed.

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.

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. (b)

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. (c)

Section VI.

Common pleas.

Term.

Commissions.

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. (d)

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 court 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.

Section VII.

Justices of peace.

Number.

Additional justice.

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 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.

(a) General creditors of an estate are not "aggrieved," within the meaning of the constitution, and hence have no right to appeal from an order of the orphans' court directing lands to be sold to pay debts of such estate. *Parker v. Reynolds*, 5 *Stew.* 280. See *Mount v. Van Ness*, 7 *Stew.* 523. The verdict of a jury on an issue sent from the orphans' court is not conclusive, and the finding as to the capacity of the testator, undue influence, &c., may be reviewed in the prerogative court. *Rushing v. Rushing*, 8 *Stew.* 120. *S. C.*, 9 *Stew.* 503. *Kitchell v. Beach*, 8 *Stew.* 448. A "person aggrieved" under our constitutional provision for appeal from the orphans' court to the prerogative court, is one whose pecuniary interest is directly affected by the order or decree, and whose right of property may be established or divested by the order or decree. *Swackhamer v. Kline's Administrator*, 10 *C. E. Gr.* 508. *Diets v. Diets*, 11 *Stew.* 483.

(b) The legislature cannot confer upon the circuit courts the power to review the proceedings of inferior tribunals by *certiorari*. *Flanagan v. Plainfield*, 15 *Vr.* 118. The circuit courts of

this state are constitutional courts, and are unassailable by legislation in the jurisdiction which they exercised at the adoption of the constitution. *Central E. R. Co. v. Tunison*, 26 *Vr.* 581. These courts have always exercised the right to dispose finally of a rule to show cause why a new trial should not be granted and to order judgment final upon verdict rendered. *Id.* The act of 1890 (P. L., p. 35), authorizing a review by the supreme court of the order of the circuit court either granting or refusing a new trial, is unconstitutional. *Id.*

(c) No proceeding of the circuit court, except a final judgment, can be transferred directly to the court of errors and appeals by writ of error. *Dodd v. Lyon*, 20 *Vr.* 229.

(d) A single judge of the common pleas may, under the law generally applicable in this state, hold that court and perform all its functions. *Gray v. Bastedo*, 17 *Vr.* 453, 4 *Griff. Reg.* 1167. See *Patterson v. State*, 19 *Vr.* 381. *Engeman v. State*, 25 *Vr.* 247.

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.

1. The legislature shall provide by law for enrolling, organizing and arming the militia. *(a)* Enrollment, &c.
2. Captains, subalterns, and non-commissioned officers, shall be elected by the members of their respective companies. Captains, &c.
3. Field officers of regiments, independent battalions, and squadrons, shall be elected by the commissioned officers of their respective regiments, battalions or squadrons. Field officers, &c.
4. Brigadier-generals, shall be elected by the field officers of their respective brigades. Brigadiers.
5. Major-generals, the adjutant-general and quartermaster-general shall be nominated by the governor, and appointed by him, with the advice and consent of the senate. Major-generals, &c.
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. *(b)* Elections.
Commissions.
Rank.
Removals.
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. Vacancies.
8. Brigade inspectors shall be chosen by the field officers of their respective brigades. Brigade inspectors.
9. The governor shall appoint all militia officers, whose appointment is not otherwise provided for in this constitution. Other 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. Staff officers.

Section II.

Civil officers.

1. Justices of the supreme court, chancellor, judges of the court of errors and appeals, and judges of the inferior court of common pleas, shall be nominated by the governor, and appointed by him, with the advice and consent of the senate. Justices of supreme court, chancellor and Judges.
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. Term and compensation.
2. Judges of the courts of common pleas shall be appointed by the senate and general assembly, in joint meeting. Judges of pleas.

(a) The state may, in time of peace, condemn lands in fee-simple for its use as a military encampment for the military forces of the state. *Morris v. Comptroller*, 25 *Pr.* 268. Commissioners to appraise the value of the land to be taken for such use may be constitutionally appointed by the governor of the state, without notice to the landowners. *Ib.*
(b) The disbanding of a company for mutinous conduct, by

the division commander, relates to the organization of the militia, and is cognizable only by the military authorities. *Grove v. Mott*, 17 *Pr.* 328. The provision of the national guard act, directing that officers of a disbanded company shall be placed on the retired list, is not in violation of the constitution. *Ib.*

- Term. They shall hold their offices for five years ; but when appointed to fill vacancies they shall hold for the unexpired term only.
- Treasurer, comptroller. 3. The state treasurer and comptroller shall be appointed by the senate and general assembly in joint meeting.
- Term. They shall hold their offices for three years, and until their successors shall be qualified into office.
- Attorney-general, prosecutors of pleas, &c. 4. The attorney-general, prosecutors of the pleas, clerk of the supreme court, clerk of the court of chancery, secretary of state, and the keeper of the state prison, shall be nominated by the governor and appointed by him with the advice and consent of the senate.
- Term. They shall hold their offices for five years.
- Reporters. 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.
- Term. They shall hold their offices for five years.
- Clerks and surrogates. 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.
- Term. They shall hold their offices for five years.
- Sheriffs and coroners. 7. Sheriffs and coroners shall be elected by the people of their respective counties at the elections for members of the general assembly, and they shall hold their offices for three years, after which, three years must elapse before they can be again capable of serving. Sheriffs shall annually renew their bonds. (a)
- Term. Sheriffs' bonds.
- Election of justices of peace. 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. (b)
- Commissions. 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.
- Term. 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.
- Vacancy.
- First election. 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.
- Other officers appointed. 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.
- Commissions. 10. All civil officers elected or appointed, pursuant to the provisions of this constitution, shall be commissioned by the governor.
- Term. 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.

ARTICLE VIII.

GENERAL PROVISIONS.

- Auditor of treasurer's accounts. 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.

(a) Where a sheriff has failed to renew his bond within the limited time, all his acts prior to proceedings by the thirty-seventh section of the act concerning sheriffs, directed to be taken to declare the office vacant, are valid as to the public and third persons. *Clark v. Ennis*, 16 Vr. 89.

(b) Justices of the peace are county officers. *Gage v. Clark*, 22 Vr. 97.

- 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 it 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."^(a) Grants and commissions.
Writs.
Indictments.
- 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. When constitution to take effect.

ARTICLE IX.

AMENDMENTS.

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.

Submission to two successive legislatures.

Publication.

Ratification at special election.

Voting on amendments separately.
Limitation.

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—

- 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 offense 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 other-

Common law and statutes.
Writs, actions, &c.
Charters.
Indictments.
Courts.

^(a) The provision that all writs shall be in the name of the state of New Jersey, applies only to such writs as at common law were required to run in the name of the sovereign. *Lenning v. Newkirk*, 7 N. J. L. J. 87.

- wise provided, shall continue with the like powers and jurisdiction as if this constitution had not been adopted. (a)
- Officers to continue in office. 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.
- Governor, &c., to continue in office. 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.
- Death, &c., of governor. 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.
- State canvassers. 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.
- Governor's election. 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.
- Clerks' and surrogates' elections. 7. The election of clerks and surrogates, in those counties where the term of office of the present incumbent 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.
- Temporary provisions. 8. The elections for the year eighteen hundred and forty-four shall take place as now provided by law.
- Ib. 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.
- Ib. 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.
- County clerks. 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.
- Laws to effectuate. 12. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

NOTE.—The amendments of the constitution went into effect September 28th, 1875. See proclamation of governor, P. L. 1876, p. 433.

(a) Chancery has no jurisdiction, in the absence of specific equities, over an assessment made in the course of municipal improvements. *Jersey City v. Lembeck*, 4 *Stew.* 255.