

1865 Georgia Constitution

PREAMBLE

We, the people of the State of Georgia, in order to form a permanent Government, establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this Constitution for the State of Georgia.

ARTICLE I

DECLARATION OF RIGHTS

1. Protection to person and property is the duty of government.
2. No person shall be deprived of life, liberty, or property, except by due process of law.
3. The writ of Habeas Corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety may require it.
4. A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.
5. Perfect freedom of religious sentiment be and the same is hereby secured, and no inhabitant of said State shall ever be molested in person or property, nor prohibited from holding any public office or trust on account of his religious opinions.
6. Freedom of speech, and freedom of the press, are inherent elements of political liberty. But while every citizen may freely speak or write, or print on any subject, he shall be responsible for the abuse of the liberty.
7. The right of the people to appeal to the Courts, to petition government on all matters of legitimate cognizance, and peaceably to assemble for the consideration of any matter of public concern, shall never be impaired.
8. Every person charged with an offense against the laws of the State, shall have the privilege and benefit of counsel; shall be furnished, on demand, with a copy of the accusation, and a list of the witnesses on whose testimony the charge against him is founded; shall have compulsory process to obtain the attendance of his own witnesses; shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury, as heretofore practiced in Georgia.
9. No person shall be put in jeopardy of life or liberty more than once for the same offense, save on his or her own motion for a new trial after conviction, or in case of mistrial.
10. No conviction shall work corruption of blood or general forfeiture of estate.
11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

12. The power of the Courts to punish for contempts shall be limited by legislative acts.
13. Legislative Acts in violation of the Constitution are void, and the Judiciary shall so declare them.
14. Ex post facto laws, laws impairing the obligation of contracts, and retroactive laws injuriously affecting any right of the citizen, are prohibited.
15. Laws should have a general operation, and no general law affecting private rights shall be varied in a particular case by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person being under a legal disability to contract, is capable of such free consent.
16. The power of taxation over the whole State shall be exercised by the General Assembly only to raise revenue for the support of government, to pay the public debt, to provide for the common defense, and for such other purposes as the General Assembly may be specially required or empowered to accomplish by this Constitution. But the General Assembly may, by statute, grant the power of taxation for designated purposes, with such limitations as they may deem expedient, to County authorities and municipal corporations, to be exercised within their several territorial limits.
17. In cases of necessity, private ways may be granted upon just compensation being first paid; and, with this exception, private property shall not be taken, save for public use, and then only on just compensation to be first provided and paid, unless there be a pressing, unforeseen necessity; in which event the General Assembly shall make early provision for such compensation.
18. 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 or places to be searched, and the persons and things to be seized.
19. The person of a debtor shall not be detained in prison, after delivery, for the benefit of his creditors of all his estate not expressly exempted by law from levy and sale.
20. The Government of the United States having, as a war measure, proclaimed all slaves held or owned in this State, emancipated from slavery, and having carried that proclamation into full practical effect, there shall henceforth be, within the State of Georgia, neither slavery nor involuntary servitude, save as a punishment for crime, after legal conviction thereof; provided, this acquiescence in the action of the Government of the United States is not intended to operate as a relinquishment, waiver, or estoppel of such claim for compensation of loss sustained by reason of the emancipation of his slaves, as any citizen of Georgia may hereafter make upon the justice and magnanimity of that Government.
21. The enumeration of rights herein contained is a part of this Constitution, but shall not be construed to deny to the people any inherent rights which they have hitherto enjoyed.

ARTICLE II

LEGISLATIVE DEPARTMENT

SECTION I

1. The Legislative, Executive, and Judicial Departments shall be distinct, and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.
2. The Legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, the members whereof shall be elected, and returns of the election made, in the manner now prescribed by law (until changed by the General Assembly), on the 15th day of November, in the present year, and biennially thereafter, on the first Wednesday of October, to serve until their successors shall be elected; but the General Assembly may, by law, change the day of election.
3. The first meeting of the General Assembly, under this Constitution, shall be on the first Monday in December next, after which it shall meet annually on the first Tuesday in November, or on such other day as the General Assembly may prescribe. A majority of each House, shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of its absent members, as each House may provide. No session of the General Assembly, after the first above mentioned, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.
4. No person holding any military commission, or other appointment, having any emolument or compensation annexed thereto, under this State, or the United States, or either of them (except Justices of the Inferior Court, Justices of the Peace, and officers of the militia), nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either branch of the General Assembly; nor shall any Senator or Representative, after his qualification as such, be elected by the General Assembly, or appointed by the Governor, with the advice and consent of two thirds of the Senate, to any office or appointment, having any emolument or compensation annexed thereto, during the time for which he shall have been elected .
5. No person convicted of any felony before any Court of this State, or of the United States, shall be eligible to any office, or appointment of honor, profit, or trust, within this State, until he shall have been pardoned.
6. No person who is a collector or holder of public money, shall be eligible to any office in this State, until the same is accounted for and paid into the treasury.

SECTION II

1. There shall be forty-four Senatorial Districts in the State of Georgia, each composed of three contiguous Counties, from each of which Districts one Senator shall be chosen, until otherwise arranged, as hereinafter provided.

The said Districts shall be constituted of Counties as follows:

The First District of Chatham, Bryan, and Effingham.

The Second District of Liberty, Tatnall, and McIntosh.

The Third District of Wayne, Pierce, and Appling.

The Fourth District of Glynn, Camden, and Charlton.

The Fifth District of Coffee, Ware, and Clinch.

The Sixth District of Echols, Lowndes, and Berrien.

The Seventh District of Brooks, Thomas, and Colquit.

The Eighth District of Decatur, Mitchell, and Miller.

The Ninth District of Early, Calhoun, and Baker.

The Tenth District of Dougherty, Lee, and Worth.

The Eleventh District of Clay, Randolph, and Terrell.

The Twelfth District of Stewart, Webster, and Quitman.

The Thirteenth District of Sumter, Schley, and Macon.

The Fourteenth District of Dooly, Wilcox, and Pulaski.

The Fifteenth District of Montgomery, Telfair, and Irwin.

The Sixteenth District of Laurens, Johnson, and Emanuel.

The Seventeenth District of Bullock, Scriven, and Burke.

The Eighteenth District of Richmond, Glasscock, and Jefferson.

The Nineteenth District of Taliaferro, Warren, and Greene.

The Twentieth District of Baldwin, Hancock, and Washington.

The Twenty-first District of Twiggs, Wilkinson, and Jones.

The Twenty-second District of Bibb, Monroe, and Pike.

The Twenty-third District of Houston, Crawford, and Taylor.

The Twenty-fourth District of Marion, Chattahoochee, and Muscogee.

The Twenty-fifth District of Harris, Upson, and Talbot.

The Twenty-sixth District of Spalding, Butts, and Fayette.

The Twenty-seventh District of Newton, Walton, and Clark.

The Twenty-eighth District of Jasper, Putnam, and Morgan.

The Twenty-ninth District of Wilkes, Lincoln, and Columbia.

The Thirtieth District of Oglethorpe, Madison, and Elbert.

The Thirty-first District of Hart, Franklin, and Habersham.

The Thirty-second District of White, Lumpkin, and Dawson.

The Thirty-third District of Hall, Banks, and Jackson.

The Thirty-fourth District of Gwinnett, DeKalb, and Henry.

The Thirty-fifth District of Clayton, Fulton, and Cobb.

The Thirty-sixth District of Meriwether, Coweta, and Camp

The Thirty-seventh District of Troup, Heard, and Carroll.

The Thirty-eighth District of Haralson, Polk, and Paulding.

The Thirty-ninth District of Cherokee, Milton, and Forsyth.

The Fortieth District of Union, Towns, and Rabun.

The Forty-first District of Fannin, Gilmer, and Pickens.

The Forty-second District of Bartow, Floyd, and Chattooga.

The Forty-third District of Murray, Whitfield, and Gordon.

The Forty-fourth District of Walker, Dade, and Catoosa.

If a new county shall be established, it shall be added to a District which it adjoins. The Senatorial Districts may be changed by the General Assembly, but only at the first session after the taking of each new census by the United States Government, and their number shall never be increased.

2. No person shall be a Senator who shall not have attained to the age of twenty-five years and be a citizen of the United States, and have been for three years an inhabitant of this State, and for one year a resident of the District from which he is chosen.

3. The Presiding officer shall be styled the President of the Senate, and shall be elected viva voce from their own body.

4. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, profit, or trust, within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION III

1. The House of Representatives shall be composed as follows: The thirty-seven counties having the largest representative population shall have two Representatives each; every other county shall have one Representative. The designation of the Counties having two Representatives shall be made by the General Assembly immediately after the taking of each census

2. No person shall be a Representative who shall not have attained to the age of twenty-one years, and be a

citizen of the United States, and have been for three years an inhabitant of this State, and for one year a resident of the County which he represents.

3. The presiding officer of the House of Representatives shall be styled the Speaker; and shall be elected viva voce from their own body.
4. They shall have the sole power to impeach all persons who have been or may be in once.
5. All bills for raising revenue or appropriating money, shall originate in the House of Representatives, but the Senate may propose or concur in amendments, as in other bills.

SECTION IV

1. Each House shall be the judge of the election returns and qualifications of its own members, and shall have power to punish them for disorderly behavior or misconduct, by censure, fine, imprisonment, or expulsion, but no member shall be expelled except by a vote of two-thirds of the House from which he is expelled.
2. Each House may punish, by imprisonment not extending beyond the session, any person not a member, who shall be guilty of a contempt by any disorderly behavior in its presence; or who, during the session, shall threaten injury to the person or estate of any member, for any thing said or done in either House; or who shall assault any member thereof; or who shall assault or arrest any witness going to or returning therefrom; or who shall rescue, or attempt to rescue, any person arrested by order of either House.
3. The members of both Houses shall be free from arrest during their attendance on the General Assembly, and in going to and returning therefrom, except for treason, felony, or breach of the peace. And no member shall be liable to answer in any other place, for anything spoken in debate in either House.
4. Each House shall keep a journal of its proceedings, and publish them immediately after its adjournment. The yeas and nays of the members on any question, shall, at the desire of one-fifth of the members present, be entered on the journals. The original journals shall be preserved (after publication) in the office of the Secretary of State, but there shall be no other record thereof.
5. Every bill, before it shall pass, shall be read three times, and on three separate and distinct days, in each House, unless in cases of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.
6. All acts shall be signed by the President of the Senate and the Speaker of the House of Representatives and no bill, ordinance, or resolution, intended to have the effect of law, which shall have been rejected by either House, shall be again proposed under the same or any other title, without the consent of two thirds of the House by which the same was rejected.
7. Neither House shall adjourn for more than three days, nor to any other place, without the consent of the other, and in case of disagreement between the two Houses, on a question of adjournment, the Governor may adjourn them.
8. Every Senator and Representative, before taking his seat, shall take an oath or affirmation to support the Constitution of the United States and of this State, and also that he hath not practiced any unlawful means, either directly or indirectly, to procure his election. And every person convicted of having given or offered a bribe, shall be disqualified from serving as a member of either House for the term for which he was elected.

9. Whenever this Constitution requires an act to be passed by two-thirds of both Houses, the yeas and nays on the passage thereof, shall be entered on the journals of each.

SECTION V

1. The General Assembly shall have power to make all laws and ordinances consistent with this Constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

2. They may alter the boundaries of Counties, and lay off and establish new Counties, but every bill to establish a new county shall be passed by at least two-thirds of the members present, in each branch of the General Assembly.

3. The General Assembly shall have power to appropriate money for the promotion of learning and science, and to provide for the education of the people, and shall provide for the early resumption of the regular exercises of the University of Georgia, by the adequate endowment of the same.

4. The General Assembly shall have power, by a vote of two-thirds of each branch, to grant pardons in cases of final conviction for treason, and to pardon or commute after final conviction in capital cases.

5. It shall be the duty of the General Assembly at its next session, and thereafter as the public welfare may require, to provide by law for the government of free persons of color, or the protection and security of their persons and property, guarding them and the State against any evil that may arise from their sudden emancipation, and prescribing in what cases their testimony shall be admitted in the Courts; for the regulation of their transactions with citizens; for the legalizing of their existing, and the contracting and solemnization of their future marital relations, and connected there with their rights of inheritance and testamentary capacity; and for the regulation or prohibition of their immigration into this State from other States of the Union, or elsewhere. And further, it shall be the duty of the General Assembly to confer jurisdiction upon Courts now existing, or to create County Courts with jurisdiction in criminal cases excepted from the exclusive jurisdiction of the Superior Court, and in civil cases whereto free persons of color may be parties.

SECTION VI

1. The General Assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, plank road, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make or change election precincts; nor to establish bridges and ferries; nor to change names, or legitimate children; but shall, by law, prescribe the manner in which such power shall be exercised by the Courts. But no bank charter shall be granted or extended, and no act passed, authorizing the suspension of specie payment by any chartered bank, except by a vote of two-thirds of each branch of the General Assembly.

2. No money shall be drawn from the Treasury of this State, except by appropriation made by law; and a regular statement and account of the receipt and expenditures of all public money shall be published from time to time.

3. No vote, resolution, law, or order, shall pass, granting a donation or gratuity in favor of any person, except by the concurrence of two-thirds of the General Assembly.

4. No law shall be passed by which a citizen shall be compelled, directly or indirectly, to become a

stockholder in, or contribute to a railroad, or other work of internal improvement without his consent, except the inhabitants of a corporate town or city. This provision shall not be construed to deny the power of taxation for the purpose of making levees or dams to prevent the overflow of rivers.

ARTICLE III

EXECUTIVE DEPARTMENT

SECTION I

1. The Executive power shall be vested in a Governor, the first of whom, under this Constitution, shall hold the office from the time of his inauguration, as by law provided, until the election and qualification of his successor. Each Governor subsequently elected shall hold the office for two years, and until his successor shall be elected and qualified, and shall not be eligible to reselection, after the expiration of a second term, for the period of four years. He shall have a competent salary, which shall not be increased nor diminished during the time for which he shall have been elected; neither shall he receive, within that time, any other emoluments from the United States, or either of them, nor from any foreign power.

2. The Governor shall be elected by the persons qualified to vote for members of the General Assembly, on the fifteenth day of November, in the year eighteen hundred and sixty-five, and biennially thereafter, on the first Wednesday of October, until such time be altered by law, which election shall be held at the places of holding general elections in the several Counties of this State, in the manner prescribed for the election of members of the General Assembly. The returns for every election of Governor shall be sealed up by the managers, separately from other returns, and directed to the President of the Senate and Speaker of the House of Representatives, and transmitted to the Governor, or the person exercising the duties of Governor for the time being, who shall, without opening the said returns, cause the same to be laid before the Senate on the day after the two houses shall have been organized; and they shall be transmitted by the Senate to the House of Representatives. The members of each branch of the General Assembly shall convene in the Representative Chamber, and the President of the Senate and the Speaker of the House of Representatives shall open and publish the returns in presence of the General Assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected Governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the Legislature to elect, the General Assembly shall immediately elect a Governor *viva voce*; and in all cases of election of a Governor by the General Assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the General Assembly, in such manner as shall be prescribed by law.

3. No person shall be eligible to the office of Governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained the age of thirty years.

4. In case of the death, resignation, or disability of the Governor, the President of the Senate shall exercise the Executive powers of the government until such disability be removed, or a successor is elected and qualified. And in case of the death, resignation, or disability of the President of the Senate, the Speaker of the House of Representatives shall exercise the Executive power of the government until the removal of the disability or the election and qualification of a governor.

5. The Governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear, (or affirm, as the case may be,) that I will faithfully execute the office of Governor of the

State of Georgia, and will, to the best of my abilities, preserve, protect, and defend the Constitution thereof, and (of) the Constitution of the United States of America.”

SECTION II

1. The Governor shall be Commander-in-Chief of the army and navy of this State, and of the militia thereof.
2. He shall have power to grant reprieves for offenses against the State, except in cases of impeachment, and to grant pardons, or to remit any part of a sentence, in all cases after conviction, except for treason, murder, or other capital offenses, in which cases he may respite the execution, and make report thereof to the next General Assembly.
3. He shall issue writs of election to fill vacancies that happen in the Senate or House of Representatives, and shall have power to convene the General Assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.
4. When any office shall become vacant by death, resignation, or otherwise, the Governor shall have power to fill such vacancy unless otherwise provided for by law, and persons so appointed shall continue in office until a successor is appointed agree ably to the mode pointed out by this Constitution, or by law in pursuance thereof.
5. A person once rejected by the Senate shall not be reappointed by the Governor to the same office during the same session or the recess thereafter.
6. The Governor shall have the revision of all bills passed by both Houses, before the same shall become laws, but two-thirds of each House may pass a law notwithstanding his dissent; and if any bill should not be returned by the Governor within five days (Sundays excepted) after it has been presented to him, the same shall be a law, unless the General Assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each House.
7. Every vote, resolution, or order, to which the concurrence of both Houses may be necessary, except on a question of election or adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of each House, according to the rules and limitations prescribed in case of a bill
8. There shall be a Secretary of State, a Comptroller General, a Treasurer, and Surveyor General, elected by the General Assembly, and they shall hold their offices for the like period as the Governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The General Assembly may at any time consolidate any two of these offices, and require all the duties to be discharged by one officer.
9. The Great Seal of the State shall be deposited in the office of the Secretary of State, and shall not be affixed to any instrument of writing, but by order of the Governor or General Assembly, and that used previously to the year 1861, shall be the Great Seal of the State.
10. The Governor shall have power to appoint his own secretaries, not exceeding two in number.

ARTICLE IV

JUDICIAL DEPARTMENT

SECTION I

1. The Judicial powers of this State shall be vested in a Supreme Court for the correction of errors, a Superior, Inferior, Ordinary, and Justices' Courts, and in such other Courts as have been, or may be, established by law.
2. The Supreme Court shall consist of three judges, who shall be elected by the General Assembly, for such term of years not less than six as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the Governor on the address of two-thirds of each branch of the General Assembly, or by impeachment and conviction thereon.
3. The said Court shall have no original jurisdiction, but shall be a Court alone for the trial and correction of errors in law and equity from the Superior Courts of the several Circuits, and from the City Courts of the Cities of Savannah and Augusta, and such other like Courts as may hereafter be established in other cities, and shall sit "at the Seat of Government" at such time or times in each year, as the General Assembly shall prescribe, for the trial and determination of writs of error from said Courts.
4. The said Court shall dispose of and finally determine every case on the docket of such Court, at the first or second term after such writ of error brought; and in case the plaintiff in error shall not be prepared at the first term of such Court, after error brought, to prosecute the case, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket and the judgment below affirmed. And in any case that may occur, the Court may, in its discretion, withhold its judgment until the term next after the argument thereon.

SECTION II

1. The Judges of the Superior Courts shall be elected on the first Wednesday in January, until the Legislature shall otherwise direct, immediately before the expiration of the term for which they or either of them may have been appointed or elected, from the Circuits in which they are to serve, by a majority vote of the people of the Circuit qualified to vote for members of the General Assembly, for the term of four years vacancies to be filled as is provided by the laws of force prior to January 1st, 1861 and shall continue in office until their successors shall be elected and qualified; removable by the Governor on the address of two-thirds of each branch of the General Assembly, or by impeachment and conviction thereon.
2. The Superior Court shall have exclusive jurisdiction in all cases of divorce, both total and partial; but no total divorce shall be granted except on the concurrent verdicts of two special juries. In each divorce case, the Court shall regulate the rights and disabilities of the parties.
3. The Superior Courts shall also have exclusive jurisdiction in all criminal cases, except such as relate to fines for neglect of duty, contempts of Court, violation of road laws, obstructions of water courses, and in all other minor offenses which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; jurisdiction of all such cases shall be vested in such County or Corporation Courts, or such other Courts, judicatures, or tribunals as now exist, or may hereafter be constituted, under such rules and regulations as the Legislature may have directed, or may hereafter by law direct.

4. All criminal cases shall be tried in the County where the crime was committed, except in cases where a jury cannot be obtained
5. The Superior Court shall have exclusive jurisdiction in all cases respecting titles to land, which shall be tried in the county where the land lies; and also in all equity causes which shall be tried in the County where one or more of the defendants reside, against whom substantial relief is prayed.
6. It shall have appellate jurisdiction in all such cases as may be provided by law.
7. It shall have power to correct errors in inferior judicatories by writ of certiorari, and to grant new trials in the Superior Courts on proper and legal grounds.
8. It shall have power to issue writs of mandamus, prohibition, scire facias, and all other writs which may be necessary for carrying its powers fully into effect.
9. The Superior Court shall have jurisdiction in all other civil cases, and in them the General Assembly may give concurrent jurisdiction to the Inferior Court, or such other County Court as they may hereafter create, which cases shall be tried in the County where the defendant resides.
10. In case of joint obligors, or joint promisors or copartners, or joint trespassers residing in different Counties, the suit may be brought in either County.
11. In case of a maker and indorser or indorsers of promissory notes residing in different Counties in this State, the same may be sued in the County where the maker resides.
12. The Superior Court shall sit in each County not less than twice in every year, at such stated times as have been or may be appointed by the General Assembly, and the Inferior and County Courts at such times as the General Assembly may direct.

SECTION III

1. The Judges shall have salaries adequate to their services fixed by law, which shall not be diminished nor increased during their continuance in office, but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.
2. There shall be a State's Attorney and Solicitors, elected in the same manner as the Judges of the Superior Court, and commissioned by the Governor, who shall hold their offices for the term of four years, or until their successors shall be appointed and qualified, unless removed by sentence on impeachment, or by the Governor, on the address of two-thirds of each branch of the General Assembly. They shall have salaries adequate to their services fixed by law, which shall not be increased or diminished during their continuance in office.
3. The Justice or Justices of the Inferior Court, and the Judges of such other County Courts as may by law be created shall be elected in each County by the persons entitled to vote for members of the General Assembly.
4. The Justices of the Peace shall be elected in each district by the persons entitled to vote for members of the General Assembly.
5. The powers of a Court of Ordinary and Probate, shall be vested in an Ordinary for each County, from

whose decision there may be an appeal to the Superior Court, under regulations prescribed by law. The Ordinary shall be, ex officio, Clerk of said Court, and may appoint a deputy Clerk. The Ordinary, as Clerk, or his deputy, may issue citations, and grant temporary letters of administration, to hold until permanent letters are granted, and said Ordinary, as Clerk, or his deputy, may grant marriage licenses. The Ordinaries in and for the respective Counties shall be elected, as other County officers are, on the first Wednesday in January, 1868, and every fourth year thereafter, and shall be commissioned by the Governor for the term of four years. In case of any vacancy of said office of Ordinary, from any cause, the same shall be filled by election, as is provided in relation to other County officers, and until the same is filled, the Clerk of the Superior Court for the time being, shall act as Clerk of said Court of Ordinary.

ARTICLE V

MISCELLANEOUS PROVISIONS

SECTION I

1. The electors of members of the General Assembly shall be free white male citizens of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they have had an opportunity of paying agreeably to law, for the year preceding the election, shall be citizens of the United States, and shall have resided six months either in the district or county, and two years within this State, and no person not qualified to vote for members of the General Assembly shall hold any office in this State.
2. All elections by the General Assembly shall be viva voce, and the vote shall always appear on the Journal of the House of Representatives, and where the Senate and House of Representatives unite for the purpose of electing, they shall meet in the Representative Chamber, and the President of the Senate shall, in such cases, preside and declare the person or persons elected.
3. In all elections by the people, the electors shall vote by ballot until the General Assembly shall otherwise direct.
4. All civil officers heretofore commissioned by the Governor, or who have been duly appointed, or elected, since the first day of January last, but who have not received their commissions, and who have not resigned, nor been removed from office and whose terms of office shall not have expired, shall continue in the exercise of the duties of their respective offices during the periods for which they were duly appointed or duly elected as aforesaid, and commissioned, and until their successors shall be appointed under the provisions of this Constitution, unless removed from office as herein provided.
5. The laws of general operation now of force in this State, are 1st, as the supreme law, the Constitution of the United States, the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States; 2d, as next in authority thereto, this Constitution; 3d, in subordination to the foregoing, all laws declared of force by an act of the General Assembly of this State, assented to December 19th, A. D. eighteen hundred and sixty, entitled "An act to approve, adopt, and make of force in the State of Georgia, a revised code of laws, prepared under the direction and by authority of the General Assembly thereof, and for other purposes therewith connected," an act of the General Assembly aforesaid, assented to December 16th, A. D. eighteen hundred and sixty-one, amendatory to the foregoing, and an act of the General Assembly, aforesaid, assented to December 13th, A. D. eighteen hundred and sixty-two, entitled "An act to settle the conflicts between the Code and the legislation of this General Assembly;" also, all acts of the

General Assembly aforesaid, passed since the date last written, altering, amending, repealing, or adding to any portion of law hereinbefore mentioned (the latter enactment having preference in case of conflict); and also, so much of the common and statute law of England, and of the statute law of this State, of force in Georgia in the year eighteen hundred and sixty, as is not expressly superseded, by, nor inconsistent with said Code, though not embodied therein, except so much of the law aforesaid as may violate the supreme law, herein recognized, or may conflict with this Constitution, and except to so much thereof as refers to persons held in slavery, which excepted laws shall henceforth be inoperative and void and any future General Assembly of this State shall be competent to alter, amend, or repeal any portion of the law declared to be of force in this Third Specification of the fifth Clause of this Fifth Article. If in any statute law herein declared of force, the word "Confederate" occurs before the word States, such law is hereby amended by substituting the word "United" for the word "Confederate."

6. Local and private statutes heretofore passed, intended for the benefit of Counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this Constitution, and which have neither expired by their own limitations nor have been repealed, shall have the force of Statute law subject to judicial decision, as to their validity when enacted, and to any limitations imposed by their own terms.

7. All judgments, decrees, orders, and other proceedings of the several Courts of this State heretofore made, within the limits of their several jurisdictions, are hereby ratified and affirmed, subject only to past or future reversal by motion for new trial, appeal, bill of review, or other proceeding, in conformity with the law of force when they were made.

8. All rights, privileges and immunities which may have vested in, or accrued to any person or persons, in his, her, or their own right, or in any fiduciary capacity, under and in virtue of any act of the General Assembly, or any judgment, decree, or order, or other proceeding of any Court of competent jurisdiction in this State, since the first day of January, A. D. eighteen hundred and sixty-one, shall be held inviolate by all Courts before-which they may be brought in question, unless attacked for fraud.

9. The marriage relation between white persons and persons of African descent, is forever prohibited, and such marriage shall be null and void; and it shall be the duty of the General Assembly to enact laws for the punishment of any officer who shall knowingly issue a license for the celebration of such marriage, and any officer or minister of the gospel who shall marry such persons together.

10. All militia and County officers shall be elected by the people, under such regulations as have been or may be prescribed by law.

11. This Constitution shall be altered or amended only by a convention of the people, called for that purpose by act of the General Assembly.

Herschel V. Johnson, President. Signed Nov. 7th, 1865. Attest: J. D. Waddell, Secretary.