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B I L L

FOR ESTABLISHING

The Constitution,

OF

The STATE of SOUTH-CAROLINA.

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CHARLES-TOWN:

Printed by PETER TIMOTHY.
M,DCC,LXXVII.

In the Legislative Council,

The 3d Day of *February*, 1777.

O R D E R E D,

THAT the Bill, intituled “ A Bill for establishing the Constitution of the State of *South-Carolina*,” as it came up to this House from the General Assembly, be printed and made public.

By Order of the House.

THOMAS FARR, Clerk.

A B I L L

FOR ESTABLISHING

The Constitution,

O F

The STATE of SOUTH-CAROLINA.

THAT, inasmuch as the Constitution or Form of Government, agreed to, and resolved upon, by the Freemen of this Country, met in Congress the 26th Day of *March* last, was temporary only, calculated for, and suited to, the then Situation of their

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public Affairs, looking forward to an Accommodation with *Great-Britain*, an Event then desired: And whereas the *American* States have been since constituted Independent States, and the political Connection heretofore subsisting between them and *Great-Britain* entirely dissolved, by the Declaration of the Honourable the Continental Congress, dated the 4th Day of *July* last, for the many great and weighty Reasons, therein particularly set forth: It therefore becomes absolutely necessary, to frame a lasting Constitution suitable to that great Event: Be it therefore Constituted and Enacted, by His Excellency *JOHN RUTLEDGE*, Esquire, President and Commander in Chief, in and over the State of *South-Carolina*, by the Honourable the Legislative Council, and General Assembly and by the Authority of the same, That the following Articles, agreed upon by the Freemen of this State, now met in General Assembly, be henceforth and forever (unless altered by the Legislative Authority of this State) looked upon as the Constitution and Form of Government thereof.

I. That the Stile of this Country be, hereafter, the State of *South-Carolina*.

II. That the Legislative Authority be vested in a Legislative Council and General Assembly.

III. That as soon as may be, after the first Meeting of the Legislative Council and General Assembly, they shall jointly, in the General Assembly, choose, by Ballot, from among themselves, or from the People

at large, a President and Commander in Chief, and a Vice-President of the State, and Privy Council, to continue for *Two* Years : And till such Choice shall be made, the former President and Commander in Chief, Vice-President, and Privy Council, shall continue to act as such.

IV. That a Member of the Legislative Council, or General Assembly, being chosen, and acting as President and Commander in Chief, or Vice-President, shall vacate his Seat, and another Person shall be elected in his Room.

V. That every Person who shall be elected President and Commander in Chief of the State, or Vice-President, or a Member of the Privy Council, shall be qualified as followeth, that is to say, the President and Vice-President, shall have been Residents in this State for *Ten* Years, and the Members of the Privy Council *Five* Years, preceding their said Election, and shall have in this State, a settled Plantation or Freehold, in their and each of their own Right, of the Value of at least *Ten Thousand Pounds* Currency, clear of Debt ; and, on being elected, they shall take an Oath of Qualification, in the General Assembly.

VI. That no future President or Commander in Chief, who shall serve for *Two* Years, shall be eligible to serve in the said Office, after the Expiration of the said Term, until the full End and Term of *Four* Years.

VII. That no Person in this State shall hold the Office of President thereof, or Vice-President, and

any other Office or Commission, civil or military, except in the Militia, either in this State, or under the Authority of the Continental Congress, at one and the same Time.

VIII. That in Case of the Death of the President and Commander in Chief, or his Absence from the State, the Vice-President of the State shall succeed to his Office, and the Privy Council shall choose, out of their own Body, a Vice-President of the State. And in Case of the Death of the Vice-president of the State, or his Absence from the State, one of the Privy Council, to be chosen by themselves, shall succeed to his Office, until a Nomination to those Offices respectively, by the General Assembly and Legislative Council, for the Remainder of the Time for which the Officer so dying or being absent was appointed.

IX. That the Privy-Council, whereof the Vice-President of the State shall of Course be a Member, and President of the Privy Council, shall consist (including the Vice-President) of *Nine* Members; *Five* of whom shall be a Quorum. *Provided* always, that no Officer of the Army or Navy, in the Service of the Continent or this State, nor Judge of any of the Courts of Law, shall be eligible,—nor shall the Father, Son, or Brother to the President for the Time being, be elected in the Privy Council during his Administration. A Member of the Legislative Council or General Assembly, being chosen of the Privy Council, shall not thereby lose his Seat in the Legislative Council or General Assembly, unless he be elected Vice-

President of the State, in which Case he shall, and another Person shall be chosen in his Stead. The Privy Council is to advise the President and Commander in Chief when required ; but he shall not be bound to consult them, unless directed by Law. If a Member of the Privy Council shall die, or depart this State, another shall be chosen in his Room, in Manner above mentioned.

X. That in Case of the Absence from *Charles-Town*, or Sickness of the President, the Vice-President, or in Case of his Absence, any one of the Privy Council, may be empowered by the President, under his Hand and Seal, to act in his Room.

XI. That the executive Authority be vested in the President and Commander in Chief, limited and restrained in Manner herein after mentioned.

XII. That each Parish and District throughout this State, shall, on the last *Monday* in *November* and the Day following, which will be in the Year of our Lord *One Thousand Seven Hundred and Seventy-eight*, and on the same Days of every Second Year thereafter, elect by Ballot, *One* Member of the Legislative Council (except the District of *St. Philip* and *St. Michael's* Parishes, *Charles-Town*, which shall elect *Two* Members; and except also the District between *Broad* and *Saludy-Rivers*, in Three Divisions, viz. the Lower District, Little-River District, and Upper or Spartan District, each of which said Divisions, shall elect *One*

Member) to meet on the second *Monday* in *January*, at the usual Place in *Charles-Town*, unless the Casualties of War, or contagious Disorders, should render it unsafe to meet there, in which Case the President and Commander in Chief for the Time being, may, by Proclamation, with the Advice and Consent of the Privy Council, appoint a more secure and convenient Place of Meeting, and to continue for *Two* Years, from the said last *Monday* in *November*. And that no Person shall be eligible to a Seat in the said Council until he hath attained the Age of *Thirty* Years. Not less than *Thirteen* Members shall be a Quorum to do Business; but, the Speaker, or any *Three* Members, may adjourn from Day to Day. No Person who resides in the Parish or District for which he is elected, shall take his Seat in the Legislative Council, unless he possesses a settled Estate and Freehold, in his own Right, in the said Parish or District, of the Value of *Two Thousand Pounds* currency at least, clear of Debt. And no Non-Resident shall be eligible to a Seat in the said Council, unless he is Owner of a settled Estate and Freehold in his own Right, in the Parish or District where he is elected, of the Value of *Seven Thousand Pounds* Currency at least, also clear of Debt.

XIII. That on the last *Monday* in *November* and the Day following, which shall be in the Year of our Lord *One Thousand Seven Hundred and Seventy-eight*, and on the same Days of every second Year thereafter, Members of the General Assembly shall be chosen, to

meet on the second *Monday* in *January* then next; at the usual Place in *Charles-Town*, unless the Casualties of War, or contagious Disorders, should render it unsafe to meet there, in which Case the President and Commander in Chief for the Time being, may, by Proclamation, with the Advice and Consent of the Privy Council, appoint a more secure and convenient Place of Meeting, and to continue for *Two* Years from the said last *Monday* in *November*. Each Parish and District within this State shall send Members to the General Assembly in the following Proportions, that is to say,

The Parishes of St. Philip and St. Michael, Charles-Town, Thirty Members.

The Parish of Christ-Church, Six Members.

The Parish of St. John, in Berkley County, Six Members.

The Parish of St. Andrew, Six Members.

The Parish of St. George, Dorchester, Six Members.

The Parish of St. James, Goose-Creek, Six Members.

The Parish of St. Thomas and St. Dennis, Six Members.

The Parish of St. Paul, Six Members.

The Parish of St. Bartholomew, Six Members.

The Parish of St. Helena, Six Members.

The Parish of St. James, Santee, Six Members.

The Parish of Prince George, Winyah, Six Members.

The Parish of Prince Frederick, Six Members.

The Parish of St. John, in Colleton County, Six Members.

The Parish of St. Peter, Six Members.

The Parish of Prince William, Six Members.

The Parish of St. Stephen, Six Members.

The District to the Eastward of the Wateree-River;
Ten Members.

The District of Ninety-Six, Ten Members.

The District of Saxe-Gotha, Six Members.

The District between Broad and Saludy-Rivers; in
Three Divisions, viz.

The Lower District, Four Members.

The Little-River District, Four Members.

The Upper or Spartan District, Four Members.

The District between Broad and Catawba Rivers;
Ten Members.

The District called the New Acquisition, Ten Mem-
bers.

The Parish of St. Matthew, Six Members.

The Parish of St. David, Six Members.

The District between Savannah-River and the North
Fork of Edisto, Six Members.

And the Election of the said Members shall be con-
ducted, as near as may be, agreeable to the Direction
of the Election Act. And where there are no
Churches or Church-Wardens in a District or Parish,
the General Assembly, at some convenient Time be-
fore their Expiration, shall appoint Places of Elec-
tion, and Persons to receive Votes and make Returns.
The Qualification of the Electors shall be, that eve-
ry free white Man, and no other Person, who acknow-

ledges the Being of a God, and believes in a future state of rewards and punishments, and who has attained to the age of *one and twenty* years, and hath been a resident and an inhabitant in this state for the space of *one* whole year, before the date of the writs for the election he offers to give his vote at, and hath a freehold at least of *fifty* acres of land, or a town lot, and hath been legally seized and possessed of the same, at least *six* months, previous to such election, or hath paid a tax the preceding year, or was taxable the present year, at least *Six* months previous to the said election, in a sum equal to the tax on *fifty* acres of land, to the support of this government, shall be deemed a person qualified to vote for, and may be capable of electing, a representative or representatives, to serve as a member or members, in the Legislative Council and General Assembly; for the parish or district where he actually is a resident, or in any other parish or district in this state where he hath the like freehold. Electors shall take an oath, or affirmation of qualification, if required by the returning officer. The qualification of the elected, if residents in the parish or district for which they shall be returned, shall be same as mentioned in the election act, and construed to mean clear of debt. But no non-resident shall be eligible to a seat in the General Assembly, unless he is owner of a settled estate and freehold, in his own right, of the value of *three thousand and five hundred pounds* currency at least, clear of debt, in the parish or district for which he is elected.

XIV. That if any parish or district neglects or refuses to elect members ; or, if the members chosen do not meet in General Assembly ; those who do meet shall have the powers of the General Assembly. Not less than *forty-nine* members shall make an House, to do business ; but the Speaker, or any *seven* members may adjourn from day to day.

XV. That when proper information can be had of the particular and comparative strength and taxable property of the different parts of the state, that then the present representation be proportioned in the most equal and just manner, regard being always had to the number of white inhabitants and taxable property of the people.

XVI. That all money bills for the support of government, shall originate in the General Assembly, and shall not be altered or amended by the Legislative Council, but may be rejected by them : But that no money be drawn out of the public treasury, but by the legislative authority of the state. All other bills and ordinances may take rise in the General Assembly or Legislative Council, and be altered, amended, or rejected by either. Bills having passed the General Assembly and Legislative Council, shall be signed by the President and Commander in Chief for the time being, the Speaker of the Legislative Council, and the Speaker of the General Assembly, in the Council Chamber, and shall then have all the force and validity of an act of General Assembly of this state. And the General Assembly and Legislative Council respectively, shall enjoy all other privileges which have, at any time, been

claimed or exercised, by the Commons House of Assembly.

XVII. That the General Assembly and Legislative Council may adjourn themselves respectively; and the President and Commander in Chief shall have no power to adjourn, prorogue, or dissolve them: But may, if necessary, by and with the advice and consent of the Privy Council, call them, before the time to which they shall stand adjourned. And where a bill hath been rejected, it may, on a meeting after an adjournment for not less than three days, of the General Assembly and Legislative Council, be brought in again.

XVIII. That the General Assembly and the Legislative Council shall each choose their respective Speakers, and their own officers, by ballot, without controul. And that, during a recess, the Speakers, of either House, shall issue writs for filling up vacancies, occasioned by death, in their respective Houses, giving at least *three* weeks, and not more than *thirty-five* days previous notice, of the time appointed for the election.

XIX. That if any parish or district shall neglect to elect a member or members, on the day of election; or, in case any person chosen a member of the Legislative Council or General Assembly, shall refuse to qualify and take his seat as such, or die, or depart the state; the said Legislative Council or General Assembly, as the case may be, shall appoint proper days, for electing a member or members of the said Legislative Council or General Assembly, in such cases respectively.

XX. That if any member of the General Assembly, or of the Legislative Council, shall accept any place of emolument, or any commission (except in the militia) he shall vacate his seat, and there shall thereupon be a new election ; but he shall not be disqualified from serving, upon being re-elected, without he is appointed Secretary of the state, a Commissioner of the Treasury, an Officer of the Customs, Register of Mesne Conveyances, a Clerk of one of the Courts of Justice, Powder-Receiver, Clerk of the Legislative or Privy-Council, Clerk of the General Assembly, Surveyor-General, or Commissary of Military Stores ; which officers are hereby declared disqualified, from being members either of the Legislative Council or General Assembly.

XXI. That no Minister of the Gospel, or public preacher, of any religious persuasion, be eligible, for the future, either as a member of the Legislative Council, or of the General Assembly.

XXII. That the Delegates of this state in the Continental Congress, be chosen, annually, by the General Assembly and Legislative Council jointly, by ballot, in the General Assembly ; and nothing contained in this Constitution shall be construed to extend to vacate the seat of any member, who is, or may be, a Delegate from this state to the Continental Congress, as such.

XXIII. That the Vice-President of the state and the Privy-Council, or the Vice-President and a ma-

majority of the Privy Council for the time being, shall exercise the powers of a Court of Chancery. And there shall be an Ordinary, who shall exercise the powers heretofore exercised by that officer in this state.

XXIV. That the jurisdiction of the Court of Admiralty be confined to maritime causes.

XXV. That Justices of the Peace shall be nominated by the General Assembly, and commissioned by the President and Commander in Chief, during pleasure. They will not be intitled to fees, except on prosecutions for felony; and, not acting in the magistracy, they shall not be intitled to the privileges allowed them by law.

XXVI. That all other judicial officers shall be chosen, by ballot, jointly by the General Assembly and Legislative Council, in the General Assembly, and, except the Judges of the Court of Chancery, commissioned by the President and Commander in Chief, during good behaviour: But shall be removed, on address of the General Assembly and Legislative Council.

XXVII. That the Sheriffs, qualified as by law directed, shall be chosen by the freeholders in each district throughout the state, and commissioned by the President and Commander in Chief, for *two* years only.

XXVIII. That Commissioners of the Treasury, the Secretary of the State, the Register of Mesne

Conveyances, Attorney-General, Powder-Receiver, Collectors, Controllers, Waiters, and Surveyor-General, be chosen by the General Assembly and Legislative Council jointly, by ballot, in the General Assembly, and commissioned by the President and Commander in Chief, during good behaviour; but shall be removed on address of the General Assembly and Legislative Council.

XXIX. That all Field Officers in the army, and all Captains in the navy, shall be, by the General Assembly and Legislative Council, chosen jointly, by ballot, in the General Assembly, and commissioned by the President and Commander in Chief, except in cases where they are to receive their commissions from Congress. And that all other officers, in the army and navy, shall be commissioned by the President and Commander in Chief.

XXX. That in case of vacancy in any of the offices above directed to be filled by the General Assembly and Legislative Council, the President and Commander in Chief, with the advice and consent of the Privy Council, may appoint others in their stead, until there shall be an election by the General Assembly and Legislative Council to fill those vacancies respectively.

XXXI. That the President and Commander in Chief, with the advice and consent of the Privy Council, may appoint, during pleasure, until otherwise directed by the resolution of the General Assem-

bly and Legislative Council, all other necessary officers, except such as are by law directed to be otherwise chosen.

XXXII. That the President and Commander in Chief shall have no power to commence war, or conclude peace, or enter into any final treaty, without the consent of the General Assembly and Legislative Council.

XXXIII. That the resolutions of the late Congresses of this State, and all laws now of force here (and not hereby altered) shall so continue, until altered or repealed by the legislature of this state, unless where they are temporary, in which case they shall expire at the times respectively limited for their duration.

XXXIV. That the President and Commander in Chief, Vice-President of this state, and Privy Council respectively, shall have the same personal privileges, as are allowed by act of assembly to the Governor, Lieutenant Governor, and Privy Council. That the President and Commander in Chief for the time being, by and with the advice and consent of the Privy Council, may lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding *thirty* days, in the recess of the General Assembly.

XXXV. That all persons who shall be chosen and appointed to any office, or to any place of trust, civil

or military, before entering upon the execution of office, shall take the following oath :

I A. B. do acknowledge the State of South-Carolina, to be a Free, Independent, and Sovereign State, and that the People thereof owe no Allegiance or Obedience to George the Third, King of Great-Britain: And I do renounce, refuse, and abjure, any Allegiance or Obedience to him. And I do swear, or affirm [as the Case may be] that I will, to the utmost of my Power, support, maintain and defend the said State, against the said King George the Third, and his Heirs and Successors, and his or their Abettors, Assistants, and Adherents, and will serve the said State in the Office of which I now hold, and in any other Office which I may hereafter hold, by the Appointment, or under the Authority, of the said State, with Fidelity and Honour, and according to the best of my Skill and Understanding.

XXXVI. That the following yearly salaries be allowed to the public officers under mentioned: The President and Commander in Chief, *five thousand five hundred and thirty-eight dollars and one half*: The Chief Justice, *two thousand one hundred and twenty-one dollars*: The Assistant Judges, *one thousand seven hundred and twenty-four dollars each*: The Attorney-General, *one thousand two hundred and ninety-three dollars*, in lieu of all charges against the public for fees on criminal prosecutions: The three Commissioners of the Treasury, *one thousand two hundred and thirty-one dollars each*.

XXXVII. That all persons and religious societies, who acknowledge, that there is one God, and a future state of rewards and punishments, and that God is publickly to be worshipped, shall be freely tolerated. The Christian Religion shall be deemed, and is hereby constituted, and declared to be, the established religion of this State. That all denominations of Christians in this state, demeaning themselves peaceably and faithfully, shall enjoy equal religious privileges. To accomplish this desirable purpose, without injury to the religious property of these societies of Christians which are by law already incorporated, for the purposes of religious worship; and to put it fully into the power of every other society of Christians, either already formed, or hereafter to be formed, to obtain the like incorporation; **It is hereby constituted, appointed, and declared,** That the respective societies of the Church of England, that are already formed in this state, for the purposes of religious worship, shall still continue incorporate, and hold the religious property now in their possession; And that, whenever *fifteen* or more male persons, not under *twenty-one* years of age, professing the Christian Religion, and agreeing to unite themselves in a society for the purposes of religious worship, they shall (on complying with the terms herein after mentioned) be, and be constituted, a Church, and be esteemed and regarded in law as of the established religion of the state, and on petition to the legislature, shall be intitled to be incorporated, and to enjoy equal privi-

leges : That every society of Christians so formed, shall give themselves a name or denomination, by which they shall be called and known in law ; and all that associate with them for the purposes of worship, shall be esteemed as belonging to the society so called : But that, previous to the establishment and incorporation of the respective societies of every denomination as aforesaid ; and in order to intitle them **thereto**, each society so petitioning, shall have agreed to, and subscribed, in a book, the following *five* articles without which, no agreement or union of men, upon pretence of religion, shall intitle them to be incorporated, and esteemed as a Church of the established religion of this state. *First*, That there is one eternal God, and a future state of rewards and punishments. *Second*, That God is to be publickly worshiped. *Third*, the Christian Religion is the true religion. *Fourth*, That the Holy Scriptures of the Old and New Testament, are divinely inspired, and are the rule of faith and practice. *Fifth*, That it is lawful, and the duty of every man being thereunto called by those that govern, to bear witness to truth. That every inhabitant of this state, when called to make an appeal to God, as a witness to truth, shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience. And, that the people of this state may forever enjoy the right of electing their own pastors or clergy ; and, at the same time, that the state may have sufficient security, for the due discharge of the pastoral office, by those who shall be admitted to be a Clergyman on the

establishment; no person shall officiate as minister of any established Church, who shall not have been chosen by a majority of the society to which he shall minister, or by persons appointed by the said majority to chuse and procure a minister for them, nor until the minister so chosen and appointed, shall have made and subscribed to the following declaration, over and above the aforesaid *five* articles, *viz.* That he is determined, by God's grace, out of the Holy Scriptures, to instruct the people committed to his charge, and to teach nothing (as required of necessity to eternal salvation) but that which he shall be persuaded may be concluded and proved from the scripture; that he will use both public and private admonitions, as well to the Sick as to the whole, within his cure, as need shall require and occasion shall be given; and that he will be diligent in prayers, and in reading of the Holy Scriptures, and in such studies as help to the knowledge of the same; that he will be diligent to frame and fashion his own self, and his family, according to the doctrine of Christ, and to make both himself and them, as much as in him lieth, wholesome examples and patterns to the flock of Christ; that he will maintain and set forwards, as much as he can, quietness, peace, and love, among all Christian people; and especially among those that are or shall be committed to his charge. No person shall disturb or molest any religious assembly, nor shall use any reproachful, reviling or abusive language, against any church; that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth by en-

gaging them in quarrels and animosities, to the hatred of the professors, and that profession which otherwise they might be brought to assent to. Any person consenting to associate with, and subscribing to, the writing or instrument by which any denomination of Christians shall form themselves into a society, before any *five* members, shall thereby be made a member thereof. Any person striking out his name from such writing or instrument as aforesaid, or having his name struck out, by any person thereto authorized by the society to which he belongs, shall cease to be a member. No person whatsoever shall speak any thing, in their religious assembly, irreverently, or seditiously, of the government of this state. No person shall, by law, be obliged to pay towards the maintenance and support of a religious worship that he does not freely join in, or has not voluntarily engaged to support: But, the Churches, Chapels, Parsonages, Glebes, and all other property, now belonging to any societies of the Church of England, or any other religious societies, shall remain, and be secured, to them for ever. No Person shall be capable of any place of honour, trust or profit, under the authority of this state, who is not a member of some church of the established religion thereof. Marriages shall be solemnized, after publication *three* several Sundays preceding such marriage, in some public place of worship, in the parish or district where the woman resides, or by licence, which shall be directed to any Minister of the Gospel, without specifying the denomination, or prescribing the mode of solemnization.

The poor shall be supported, and elections managed in the accustomed manner, until laws shall be provided; to adjust those matters in the most equitable way.

XXXVIII. That no Clergyman, Preacher, or Minister of the Gospel, shall be intitled to any greater exemption from punishments inflicted by law, by reason of any Benefit of Clergy, than if such Clergyman, Preacher or Minister was a lay-man; but that every such Clergyman, Preacher or Minister being found guilty of any offence which is clergyable or not clergyable by the law, shall suffer as a lay-man.

XXXIX. That no part of this Constitution shall be altered without a notice of *ninety* days being previously given: Nor shall any part of the same be changed, without the consent of a majority of the members of the General Assembly and Legislative Council.

XL. That the General Assembly and Legislative Council shall not proceed to the election of a President or Vice-President, until there be a majority of both Houses present:

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