

# Constitution of Michigan of 1835

In convention, begun at the city of Detroit, on the second Monday of May, in the year one thousand eight hundred and thirty five:

## **Preamble.**

We, the PEOPLE of the territory of Michigan, as established by the Act of Congress of the Eleventh day of January, in the year one thousand eight hundred and five, in conformity to the fifth article of the ordinance providing for the government of the territory of the United States, North West of the River Ohio, believing that the time has arrived when our present political condition ought to cease, and the right of self-government be asserted; and availing ourselves of that provision of the aforesaid ordinance of the congress of the United States of the thirteenth day of July, one thousand seven hundred and eighty-seven, and the acts of congress passed in accordance therewith, which entitle us to admission into the Union, upon a condition which has been fulfilled, do, by our delegates in convention assembled, mutually agree to form ourselves into a free and independent state, by the style and title of "The State of Michigan," and do ordain and establish the following constitution for the government of the same.

## ARTICLE I

### BILL OF RIGHTS

#### **Political power.**

First. All political power is inherent in the people.

#### **Right of the people.**

2. 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, and to abolish one form of government and establish another, whenever the public good requires it.

#### **No exclusive privileges.**

3. No man or set of men are entitled to exclusive or separate privileges.

#### **Religious worship.**

4. Every person has a right to worship Almighty God according to the dictates of his own conscience; and no person can of right be compelled to attend, erect, or support, against his will, any place of religious worship, or pay any tithes, taxes or other rates, for the support of any minister of the gospel or teacher of religion.

**Support of religious societies; by state treasury prohibited.**

5. No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries.

**Rights of conscience.**

6. The civil and religious rights, privileges and capacities of no individual shall be diminished or enlarged on account of his opinions or belief concerning matters of religion.

**Freedom of speech and press.**

7. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libels, 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.

**Search and seizure.**

8. The person, houses, papers and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

**Trial by jury.**

9. The right of trial by jury shall remain inviolate.

**Criminal prosecution; rights of accused.**

10. In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury of the vicinage; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense, and in all civil cases, in which personal liberty may be involved, the trial by jury shall not be refused.

**Same; prerequisite of presentment or indictment, exceptions.**

11. No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger.

### **Twice in jeopardy, bail, habeas corpus.**

12. No person for the same offence, shall be twice put in jeopardy of punishment. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

### **Right to bear arms.**

13. Every person has a right to bear arms for the defence of himself and the state.

### **Military subordinate to civil power.**

14. The military shall, in all cases, and at all times, be in strict subordination to the civil power.

### **Quartering of troops.**

15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

### **Treason.**

16. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court./

### **Attainder, ex post facto, impairment of contract.**

17. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall be passed.

### **Excessive bail, fines, punishment.**

18. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted.

### **Taking property for public use; compensation.**

19. The property of no person shall be taken for public use, without just compensation therefor.

### **Right to assemble and petition.**

20. The people shall have the right freely to assemble together, to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

**Acts void.**

21. All acts of the legislature contrary to this or any other article of this Constitution, shall be void.

ARTICLE II

ELECTORS

**Qualifications of electors.**

1. In all elections, every white male citizen above the age of twenty-one years, having resided in the state six months next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, who may be a resident of this state at the time of the signing of this constitution, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote, except in the district, county,\* or township in which he shall actually reside at the time of such election.

**Votes by ballot, exception.**

2. All votes shall be given by ballot, except for such township officers as may, by law, be directed to be otherwise chosen.

**Privilege from arrest, exceptions.**

3. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

**Exemption from military duty; exception.**

4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

**Residence not lost on account of absence on public business.**

5. No person shall be deemed to have lost his residence in this state, by reason of his absence on business of the United States, or of this state.

**Residence not gained because of military service here.**

6. No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the same.

ARTICLE III

DIVISION OF THE POWERS OF GOVERNMENT

**Division of the powers of government.**

1. The powers of the government shall be divided into three distinct departments; the Legislative, the Executive and the Judicial; and one department shall never exercise the powers of another, except in such cases as are expressly provided for in this constitution.

ARTICLE IV

LEGISLATIVE DEPARTMENT

**Legislative power.**

1. The Legislative power shall be vested in a Senate and House of Representatives.

**Number of representatives and senators.**

2. The number of the members of the House of Representatives shall never be less than forty-eight, nor more than one hundred; and the Senate shall at all times equal in number one third of the house of representatives, as nearly as may be.

**Census, time of taking; apportionment of legislative members.**

3. The Legislature shall provide by law for an enumeration of the inhabitants of this state in the years one thousand eight hundred and thirty-seven, and one thousand eight hundred and forty-five, and every ten years after the said last mentioned time: and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several counties and districts, according to the number of white inhabitants.

### **Election of legislators; representative.**

4. The representatives shall be chosen annually on the first Monday of November, and on the following day,\* by the electors of the several counties or districts into which the State shall be divided for that purpose. Each organized county shall be entitled to at least one representative; but no county hereafter organized shall be entitled to a separate representative until it shall have attained a population equal to the ratio of representation hereafter established.

### **Same; senator.**

5. The Senators shall be chosen for two years, at the same time and in the same Manner as the representatives are required to be chosen. At the first session of the legislature under this constitution, they shall be divided by lot from their respective districts, as nearly as may be, into two equal classes. The seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year: so that one-half thereof, as nearly as may be, shall be chosen annually thereafter.

### **Senatorial districts.**

6. The State shall be divided, at each new apportionment, into a number of not less than four nor more than eight senatorial districts, to be always composed of contiguous territory; so that each district shall elect an equal number of senators annually, as nearly as may be: and no county shall be divided in the formation of such districts.

### **Qualification of senators and representatives.**

7. Senators and representatives shall be citizens of the United States and be qualified electors in the respective counties and districts which they represent: and a removal from their respective counties or districts shall be deemed a vacation of their seats.

### **Ineligibility of certain officers.**

8. No person holding any office under the United States, or of this state, officers of the militia, justices of the peace, associate judges of the circuit and county courts and postmasters excepted, shall be eligible to either house of the legislature.

### **Privilege from arrest.**

9. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

### **Quorum, adjournment, attendance, officers.**

10. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties, as each house may provide. Each house shall choose its own officers.

### **Rules; each house judge of election of its members.**

11. Each house shall determine the rules of its proceedings, and judge of the qualifications, elections and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election.

### **Journals; yeas and nays.**

12. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from, and protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

### **Elections, viva voce.**

13. In all elections by either or both houses, the votes shall be given viva voce, and all votes on nominations made to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

### **Adjournment.**

14. The doors of each house shall be open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may then be in session.

### **Bills; origin.**

15. Any bill may originate in either house of the legislature.

### **Same; consideration by governor; reconsideration by legislature; pocket veto.**

16. Every bill passed by the legislature shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it; if, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent with the objections to the other house, by whom it shall

likewise be reconsidered and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively: And if any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become 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 become a law.

#### **Resolutions treated as bills; exception.**

17. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except in cases of adjournment, shall be presented to the governor, and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

#### **Compensation; increase.**

18. The members of the legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected; and such compensation shall never exceed three dollars a day.

#### **Members excluded from civil appointment during term.**

19. No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he is elected.

#### **Writs of elections for filling vacancies.**

20. The governor shall issue writs of election, to fill such vacancies as may occur in the senate and house of representatives.

#### **Meetings of the legislature.**

21. The legislature shall meet on the first Monday in January in every year, and at no other period, unless otherwise directed by law, or provided for in this constitution.

#### **Style of the laws.**

22. The style of the laws of this State shall be: "Be it enacted by the Senate and House of Representatives of the State of Michigan."



## ARTICLE V

### EXECUTIVE DEPARTMENT

#### **Governor and lieutenant governor; power, term.**

1. The supreme executive power shall be vested in a Governor, who shall hold his office for two years; and a lieutenant Governor shall be chosen at the same time, and for the same term.

#### **Same; eligibility.**

2. No person shall be eligible to the office of Governor or lieutenant Governor who shall not have been five years a citizen of the United States, and a resident of this state two years next preceding the election.

#### **Same; election.**

3. The Governor and lieutenant Governor shall be elected by the electors at the times and places of choosing members of the legislature. The persons having the highest number of votes for Governor and lieutenant Governor shall be elected: but in case two or more have an equal and the highest number of votes for Governor or lieutenant Governor, the legislature shall, by joint vote, choose one of the said persons, so having an equal and the highest number of votes, for Governor or lieutenant Governor.

#### **Same; returns of elections.**

4. The returns of every election for Governor and lieutenant Governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the president of the senate, who shall open and publish them, in the presence of the members of both houses.

#### **Governor; military power.**

5. The Governor shall be commander-in-chief of the militia, and of the army and navy of this state.

#### **Same; executive business.**

6. He shall transact all executive business with the officers of government, civil and military; and may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

#### **Same; execution of the laws.**

7. He shall take care that the laws be faithfully executed.

**Same; special sessions of legislature, messages.**

8. He shall have the power to convene the legislature on extraordinary occasions. He shall communicate by message, to the legislature, at every session the condition of the state, and recommend such matters to them as he shall deem expedient.

**Same; adjournment of legislature in certain cases.**

9. He shall have power to adjourn the legislature to such time as he may think proper, in case of a disagreement between the two houses with respect to the time of adjournment, but not to a period beyond the next annual meeting.

**Same; place of meeting of legislature.**

10. He may direct the legislature to meet at some other place than the seat of government, if that shall become, after its adjournment, dangerous from a common enemy, or a contagious disease.

**Same; pardon power.**

11. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

**Same; appointments to fill vacancies.**

12. When any office, the appointment to which is vested in the Governor and senate or in the legislature, becomes vacant during the recess of the legislature, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the succeeding session of the legislature.

**Powers and duties of governor; devolution on lieutenant governor.**

13. In case of the impeachment of the Governor, his removal from office, death, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant Governor until such disability shall cease, or the vacancy be filled.

**Same; devolution on president pro tempore of senate.**

14. If, during the vacancy of the office of Governor, the lieutenant Governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the Senate *pro tempore*, shall act as Governor, until the vacancy be filled.

**Lieutenant governor ex officio president of senate.**

15. The lieutenant Governor shall, by virtue of his office, be president of the Senate: In committee of the whole, he may debate on all questions; and when there is an equal division, he shall give the casting vote.

**Office of governor; persons ineligible to execute.**

16. No member of congress, nor any other person holding office under the United States, or this state, shall execute the office of Governor.

**Same; lieutenant governor; filling of vacancy.**

17. Whenever the office of Governor, or lieutenant Governor, becomes vacant, the person exercising the powers of governor for the time being shall give notice thereof, and the electors shall, at the next succeeding annual election for members of the legislature, choose a person to fill such vacancy.

**Same; compensation.**

18. The Governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he has been elected.

**Lieutenant governor, compensation.**

19. The lieutenant Governor, except when acting as Governor, and the president of the senate pro tempore, shall each receive the same compensation as shall be allowed to the speaker of the house of representatives.

**Great seal for state.**

20. A great seal for the state shall be provided by the Governor, which shall contain the device and inscriptions, represented and described in the papers relating thereto, signed by the president of the convention, and deposited in the office of the secretary of the territory. It shall be kept by the secretary of state; and all official acts of the Governor, his approbation of the laws excepted, shall be thereby authenticated.

**Grants and commissions.**

21. All grants and commissions shall be in the name, and by the authority, of the people of the state of Michigan.

## ARTICLE VI

### JUDICIAL DEPARTMENT

#### **Judicial power.**

1. The judicial power shall be vested in one supreme court, and in such other courts as the legislature may, from time to time, establish.

#### **Supreme court, judges, term, appointment, compensation.**

2. The judges of the supreme court shall hold their offices for the term of seven years; they shall be nominated, and by and with the advice and consent of the senate, appointed by the Governor. They shall receive an adequate compensation, which shall not be diminished during their continuance in office. But they shall receive no fees nor perquisites of office, nor hold any other office of profit or trust under the authority of this state or of the United States.

#### **Probate courts.**

3. A Court of Probate shall be established in each of the organized counties.

#### **County, circuit and probate judges, election, term.**

4. Judges of all County Courts, Associate Judges of Circuit Courts, and Judges of Probate, shall be elected by the qualified electors of the county in which they reside, and shall hold their office for four years.

#### **Clerks.**

5. The Supreme Court shall appoint their Clerk or Clerks; and the electors of each county shall elect a clerk, to be denominated a County Clerk, who shall hold his office for the term of two years, and shall perform the duties of clerk to all the courts of record to be held in each county, except the supreme court and court of probate.

#### **Justices of the peace, term.**

6. Each township may elect four justices of the peace, who shall hold their offices for four years; and whose powers and duties shall be defined and regulated by law. At their first election, they shall be classed and divided by lot into numbers one, two, three and four, to be determined in such manner as shall be prescribed by law; so that one justice shall be annually elected in each township thereafter. A removal of any justice from the township in which he was elected shall vacate his office. In all incorporated towns, or cities, it shall be competent for the legislature to increase the number of justices.

### **Style of process.**

7. The style of all process shall be "In the name of the people of the state of Michigan:" and all indictments shall conclude against the peace and dignity of the same.

## ARTICLE VII

### CERTAIN STATE AND COUNTY OFFICERS

#### **Secretary of state, term, appointment, duties.**

1. There shall be a secretary of state, who shall hold his office for two years, and who shall be appointed by the Governor, by and with the advice and consent of the senate. He shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law.

#### **State treasurer; appointment, term.**

2. A state Treasurer shall be appointed by a joint vote of the two houses of the legislature, and shall hold his office for the term of two years.

#### **Auditor general, attorney general, prosecuting attorneys, appointment, term.**

3. There shall be an Auditor General and an Attorney General for the state, and a prosecuting Attorney for each of the respective counties, who shall hold their offices for two years, and who shall be appointed by the Governor, by and with the advice and consent of the senate, and whose powers and duties shall be prescribed by law.

#### **County officers, election, terms; sheriff's security.**

4. There shall be a sheriff, a county Treasurer, and one or more Coroners, a Register of Deeds and a County Surveyor, chosen by the electors in each of the several counties once in every two years, and as often as vacancies shall happen. The Sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years: he may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff.

## ARTICLE VIII

### IMPEACHMENTS AND REMOVALS FROM OFFICE

#### **Impeachments.**

1. The house of representatives shall have the sole power of impeaching all civil officers of the state, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment.

#### **Same; procedure.**

2. All impeachments shall be tried by the Senate. When the Governor or lieutenant Governor shall be tried, the chief justice of the Supreme Court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question, according to the evidence; 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 to removal from office; but the party convicted shall be liable to indictment and Punishment according to law.

#### **Power of governor to remove judges.**

3. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the Courts, the Governor shall remove any of them on the address of two-thirds of each branch of the legislature; but the cause, or causes, for which such removal may be required, shall be stated at length in the address.

#### **Removal of county and township officers.**

4. The legislature shall provide by law for the removal of justices of the peace and other county and township officers, in such manner, and for such cause, as to them shall seem just and proper.

## ARTICLE IX

### MILITIA

#### **Militia; organization and discipline.**

1. The legislature shall provide by law for organizing and disciplining the militia in such manner as they shall deem expedient, not incompatible with the constitution and laws of the United States.

**Same; discipline of officers.**

2. The legislature shall provide for the efficient discipline of the Officers, commissioned and non-commissioned, and musicians, and may provide by law for the organization and discipline of Volunteer Companies.

**Same; election or appointment of officers.**

3. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the Governor.

**Same; called forth by governor, purposes.**

4. The Governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrections and repel invasions.

ARTICLE X

EDUCATION

**Superintendent of public instruction, appointment, term.**

1. The Governor shall nominate, and, by and with the advice and consent of the legislature in joint vote, shall appoint a Superintendent of Public Instruction, who shall hold his office for two years, and whose duties shall be prescribed by law.

**Perpetual fund for support of schools.**

2. The legislature shall encourage, by all suitable means, the promotion of Intellectual, Scientifical and Agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund; the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of schools throughout the State.

**Common school system, yearly term.**

3. The legislature shall provide for a system of Common Schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its equal proportion of the interest of the public fund.

### **Libraries.**

4. As soon as the circumstances of the state will permit, the legislature shall provide for the establishment of Libraries, one at least in each township; and the money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied for the support of said libraries.

### **University fund.**

5. The legislature shall take measures for the protection, improvement or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States to this state for the support of a University; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund for the support of said University, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant: and it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

## ARTICLE XI

### PROHIBITION OF SLAVERY

#### **Slavery prohibited.**

1. Neither slavery nor involuntary servitude shall ever be introduced into this state, except for the punishment of crimes of which the party shall have been duly convicted.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

#### **Official oath or affirmation, form.**

1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, (as the case may be) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.



**Acts of incorporation, assent of two-thirds.**

2. The legislature shall pass no act of incorporation, unless with the assent of at least two-thirds of each house.

**Internal improvements, scope.**

3. Internal improvement shall be encouraged by the government of this state; and it shall be the duty of the legislature, as soon as may be, to make provision by law for ascertaining the proper objects of improvement, in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic, economical application of the funds which may be appropriated to these objects.

**Treasury withdrawals; annual statement, publication.**

4. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

**Divorces.**

5. Divorces shall not be granted by the legislature; but the legislature may by law authorize the higher courts to grant them under such restrictions as they may deem expedient.

**Lotteries.**

6. No lottery shall be authorized by this State nor shall the sale of lottery tickets be allowed.

**Organization of counties.**

7. No county now organized by law shall ever be reduced, by the organization of new counties, to less than four hundred square miles.

**Location of state offices.**

8. The Governor, Secretary of State, Treasurer, and Auditor General shall keep their offices at the seat of government.

**Seat of government.**

9. The seat of government for this State shall be at Detroit, or at such other place or places as may be prescribed by law, until the year eighteen-hundred and forty-seven, when it shall be permanently located by the legislature.

### **Governor and lieutenant governor, term.**

10. The first Governor and lieutenant Governor shall hold their offices until the first Monday of January, one thousand eight hundred and thirty-eight, and until others shall be elected and qualified: and thereafter, they shall hold their offices for two years, and until their successors shall be elected and qualified.

### **Successor's term.**

11. When a vacancy shall happen, occasioned by the death, resignation, or removal from office of any person holding office under this state, the successor thereto shall hold his office for the period which his predecessor had to serve, and no longer, unless again chosen or reappointed.

## ARTICLE XIII

### MODE OF AMENDING AND REVISING THE CONSTITUTION

#### **Constitutional amendments; legislative and referendum procedure.**

1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; 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 the time of making such choice: and if in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner, and at such time, as the legislature shall prescribe and if the people shall approve and ratify such amendment or amendments by a majority of the electors, qualified to vote for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

#### **Constitutional convention.**

2. And if at, any time, two-thirds of the senate and house of representatives shall think it necessary to revise or change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of a calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

## SCHEDULE

### **Preservation of rights of action, process.**

1. That no inconvenience may arise from a change of the territorial government to a permanent state government, it is declared that all writs, actions, prosecutions, contracts, claims, and rights, of individuals and of bodies corporate, shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued under the authority of the territory of Michigan, shall be as valid as if issued in the name of the state.

### **Laws to remain in force.**

2. All laws now in force in the territory of Michigan, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the legislature.

### **Fines, penalties and escheats to state.**

3. All fines, penalties, forfeitures and escheats, accruing to the territory of Michigan, shall accrue to the use of the state.

### **Recognizances valid.**

4. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the state. And all bonds executed to the governor of this territory, or to any other officer in his official capacity, shall pass over to the governor or other proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions, which have arisen or which may arise before the organization of the judicial department under this constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the state.

### **Officers.**

5. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of this territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution.

### **Election of state and federal officers.**

6. The first election for governor, lieutenant governor, members of the state legislature, and a representative in the congress of the United States, shall be held on the first Monday in October next, and on the succeeding day. And the president of the convention shall issue writs to the

sheriffs of the several counties or districts, or, in case of vacancy, to the coroners, requiring them to cause such election to be held on the days aforesaid, in their respective counties or districts. The election shall be conducted in the manner prescribed, and by the township officers designated as inspectors of elections, and the returns made as required, by the existing laws of the territory or by this constitution: Provided, however, that the returns of the several townships in the district composed of the unorganized counties of Ottawa, Ionia, Kent and Clinton, shall be made to the clerk of the township of Kent, in said district, and the said township clerk shall perform the same duties, as by the existing laws of the territory devolve upon the clerks of the several counties in similar cases.

### **First meeting of legislature.**

7. The first meeting of the legislature shall be at the city of Detroit, on the first monday in November next, with power to adjourn to any other place.

### **County and township officers.**

8. All county and township officers shall continue to hold their respective Offices, unless removed by the competent authority, until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

### **Constitution submission to electors; time, return.**

9. This constitution shall be submitted, at the election to be held on the first Monday in October next, and on the succeeding day, for ratification or rejection, to the electors qualified by this constitution to vote at all elections: and if the same be ratified by the said electors, the same shall become the constitution of the state of Michigan. At the election aforesaid, on such of the ballots as are for the said constitution, shall be written or printed the word "yes" and on those which are against the ratification of said constitution, the word "no." And the returns of the votes on the question of ratification or rejection of said constitution shall be made to the President of this convention at any time before the first monday in November next, and a digest of the same communicated by him to the Senate and House of Representatives on that day.

### **President of convention; duties on ratification.**

10. And if this constitution shall be ratified by the people of Michigan, the president of this convention shall, immediately after the same shall be ascertained, cause a fair copy thereof, together with an authenticated copy of the act of the legislative council, entitled "An act to enable the people of Michigan to form a constitution and state government," approved January twenty-sixth, eighteen-hundred and thirty-five, providing for the calling of this convention, and also a copy of so much of the last census of this territory as exhibits the number of free inhabitants of that part thereof which is comprised within the limits in said constitution defined as the boundaries of the proposed State of Michigan, to be forwarded to the president of the United States, together with an expression of the decided opinion of this convention, that the number of the free inhabitants of said proposed state now exceeds the number requisite to constitute two congressional districts, and the respectful request of this convention in behalf of

the people of Michigan, that all said matters may be by him laid before the congress of the United States at their next session.

### **Secretaries to act in absence of president.**

11. In case of the failure of the president of this convention to perform the duties prescribed by this constitution, by reason of his absence, death or from any other cause, said duties shall be performed by the Secretaries of this convention.

### **Representatives and senators, apportionment.**

12. Until the first enumeration shall be made as directed by this constitution, the County of Wayne shall be entitled to eight representatives; the county of Monroe to four representatives; the county of Washtenaw to seven representatives; the county of St. Clair to one representative; the County of St. Joseph to two representatives; the county of Berrien to one representative; the county of Calhoun to one representative; the county of Jackson to one representative; the county of Cass to two representatives; the county of Oakland to six representatives; the county of Macomb to three representatives; the county of Lenawee to four representatives; the county of Kalamazoo, and the unorganized counties of Allegan and Barry, to two representatives; the county of Branch to one representative; the county of Hillsdale to one representative; the county of Lapeer to one representative; the county of Saganaw and the unorganized counties of Genesee and Shiawasse to one representative; the county of Michilimackinac to one representative; the county of Chippewa to one representative; and the unorganized counties of Ottawa, Kent, Ionia and Clinton to one representative.

And for the election of senators, the state shall be divided into five districts, and the apportionment shall be as follows: The county of Wayne shall compose the first district, and elect three senators; the counties of Monroe and Lenawee shall compose the second district, and elect three senators; The Counties of Hillsdale, Branch, St. Joseph, Cass, Berrien, Kalamazoo and Calhoun shall compose the third district, and elect three senators; The counties of Washtenaw and Jackson shall compose the fourth district and elect three senators; And the counties of Oakland, Lapeer, Saganaw, Macomb, St. Clair, Michilimackinac and Chippewa shall compose the fifth district, and elect four senators.

Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the legislature.

John Biddle  
President.

### AMENDMENT NO. I

That so much of the first section of the second article of the constitution as prescribes the place in which an elector may vote, and which is in these words, to wit: "district, county or township," be abolished, and that the following be substituted in the place thereof, to wit: "Township or ward." (Ratified November 1839.)

### AMENDMENT NO. II

That the constitution of this state be so amended, that every law authorizing the borrowing of money or the issuing of state stocks, whereby a debt shall be created on the credit of the state, shall specify the object for which the money shall be appropriated; and that every such law shall embrace no more than one such object, which shall be simply and specifically stated, and that no such law shall take effect until it shall be submitted to the people at the next general election, and be approved by a majority of the votes cast for and against it at such election; that all money to be raised by the authority of such law be applied to the specific object stated in such law, and to no other purpose, except the payment of such debt thereby created. This provision shall not extend or apply to any law to raise money for defraying the actual expenses of the legislature, the judicial and state officers, for suppressing insurrection, repelling invasion, or defending the state in time of war. (Ratified November 1843.)

### AMENDMENT NO. III

Strike out of section four of article four, the words "On the first Monday in November and on the following days," and insert the words "On the first Tuesday," so that said section will read:

The representatives shall be chosen annually on the first Tuesday of November, by the electors of the several counties or districts into which the state shall be divided for that purpose. (Ratified November 1844.)

#### References

- Michigan Legislative Council (Compiler). Michigan Compiled Laws, 1979, Vol. I. Lansing, MI: Legislative Council, 1981.
- Legislative Service Bureau (Compiler). Michigan Manual, 1993-1994. Lansing, MI: Legislative Council, State of Michigan, 1993.