THE CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS. PREAMBLE The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquility their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness. The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them. We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain and establish the following Declaration of Rights, and Frame of Government, as the Constitution of the Commonwealth of Massachusetts. PART THE FIRST A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts Article I. All men are born free and equal, and have certain natural, es ential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property: in fine, that of seeking and obtaining their safety and happiness. [Annulled by Amendments, Art. CVI.] Article II. It is the right Pea well as the duty of all men in society, publicly and at stated seasons, to worship the Supreme Being, the great Preserver of the universe. No subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship. [See Amendments, Arts. XLVI and XLVIII.] Article III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion and morality: Therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time t o time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily. And the people of this commonwealth have also a right to, and do, invest their legislature w ith authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend. Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their sup port and maintenance. And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised. Any every de ever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America in Congress assembled. Article V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them. Article VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural. Article VII. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it. Article VIII. In order to prevent those, w ho are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments. Article IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of governme nt, have an equal right to elect officers, and to be elected, for public employments. [See Amendments, Arts. XLV and XLVIII, The Initiative, sec. 2.] [For compulsory voting, see Amendments, Art. LXI.] [For use of voting machines at elections, see Amendments, Art. XXXVIII.] [For absent voting, see Amendments, Art. LXXVI.] Article X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing la ws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that that of the representative body of the people. In fine, the ve body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor. [See Amendments, Arts. XXXIX, XLIII, XLVII, XLVIII, The Initiative, II, sec. 2, XLIX, L, LI and XCVII.] Article XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws. Article XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to prod uce all proofs, that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defense by himself, or his council at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury. [See Amendments, Art. XLVIII, The Initiative, II, sec. 2.] Article XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the gre atest securities of the life, liberty, and property of the citizen. Article XIV. Every subject has a right to be secure from all unreasonable searches, and seizures , of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest on e or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or se izure: and no warrant ought to issue but in the manner and form prescribed by the laws. [See Amendments, Art. XLVIII, The Initiative, II, sec. 2]. Article XV. In all controversies concerning property, and in all suits between persons, except in cases in which it has heretof ore been otherwise usual, the parties have a right to a trial by jury; and this method of procedure shall be held sacred. Article XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be rest rained in this commonwealth.] [See Amendments, Art. XLVIII, The Initiative, II, sec. 2.] [Annulled and superseded by Amendments, Art. LXXVII. Article XV rising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it. [See Amendments, Art. XLVIII, The Initiative, II, sec. 2]. Article XVI. [The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be rest ority, and be governed by it. Article XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of II. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil auth representatives: and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execu piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and rep tion of the laws necessary for the good administration of the commonwealth. Article XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer. [See Amendments, Art. XLV III, The Initiative, II, sec. 2.] Article XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for. [See Amendments, Arts. XLVIII, The Initiative, II, sec. 2.] Article XXI. The legislature ought frequently to assemble for making new laws, and confirming the laws, and for strengthening and amending the laws, and for making new laws, as the common welfare shall require. Article XXII. In time of peace, no soldier ought to be quartered in any house w ithout the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature. Article XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, e xcept those employed in the army or navy, and except the militia in actual service, but by authority of the legislature. [See Amendments, Art. XLVIII, The Initiative, II, sec. 2.] Article XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judge s as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of th e people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws. [See Amendments, Arts. XLVIII, The In itiative, II, sec. 2, and The Referendum, II, sec. 2, LXVIII and XCVIII.] Article XXX. In the government of this commonwealth, the legislative d epartment shall never exercise the executive and judicial powers, or either of them: the judicial shall never exercise the legislative and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: to the end it ma y be a government of laws and not of men. PART THE SECOND The Frame of Government. The people, inhabiting the territory for merly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state by the name of "THE COMMONWEALTH OF MASSACHUSETTS" Chapter I, LEGISLATIVE POWER, Section I The General Court. Article I. The department of legislation shall be formed by two branches, a Senate and House of Representatives: each of which shall have a negative on th e other. The legislative body shall assemble every year [on the last Wednesday in May, and at such other times as they shall judge nece ssary;] and shall dissolve and be dissolved on the day next preceding the day on which the next annual election is to be held. [See Amendments, Arts. X, LXXII, and LXXV.] A g the said last Wednesday in May,] and shall be called The General Court of Massachusetts. [See Amendments, Arts. X, LXXII, and LXXV.] A rticle II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, appr ove thereof, he shall signify his approbation by signing the same. B ut if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the se ate or house of representatives, in whichsoever the same shall hav e originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if aft er such reconsideration, two thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the leg islature, where it shall also be reconsidered, and if approved by tw o thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and t he names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth. [And in all such cases, if any bill or resolve shall not be return olve, shall be entered upon the public records of the commonwealth. [And in order to prevent unnecessary delays, if any bill or resolve shall not be return ed by the governor within five days after it shall have been pres ented, the same shall have the force of a law.] [See Amendments, Arts. I, XLVIII, LIV, LXIII, sec. 5, and XC, sec. 1.] Article III. The general court shall forev er have full power and authority to erect and constitute judicator ies and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, off ences, pleas, processes, plaints, actions, matters, causes and th ings, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same, whet her the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and j udicatories are hereby given and granted full power and author ity, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them. [See Amendm ents, Art. XLVIII, The Initiative, II, sec. 2.] Article IV. And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establ ish, all manner of wholesome and reasonable orders, laws, sta tutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall j udge to be for the good and welfare of this commonwealth, an d for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said commonwealth; the election and constitution of whom are not hereafter in this form of government otherwise provided for; a nd to set forth the several duties, powers, and limits, of the s everal civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the executi on of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons re sident, and estates, upon all within the said commonwealth, and upon all property, to wit, lands, tenements, hereditaments, goods, chattels, and effects, within the same; and d to impose and levy, reasonable duties and excises, upon all produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and dispose d of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necess ary defence and support of the government of the said com monwealth, and for the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. And while the public charges of government, or any part thereof, shall be assessed on p erson and estates in this commonwealth, in proportion to the rolls and estates in the several towns and places, as they stand from time to time, so shall the same be assessed on persons and estates in the said commonwealth, as nearly as the same can be done, from the last valuation of the said towns and places, which valuation shall be made anew once in every ten year s at least, in the manner that has hitherto been practiced, in order that such assessments may be made with equality, there shall be a valuation of estates wit hin the commonwealth taken anew once in every ten year t, and as much oftener as the general court shall order. [See Amendments, Arts. XLI, XLIV, XCIX and CXII.] [For the authority of the general court to charter cities and establish limited town meeting form of government, see Amendments, Arts. II and LXX. For power of the general court to establish voting precincts in towns, see Amendments. Art. XXIX. For additional authority and power given to the general court, see Amendments, Arts. XLI and XLIV. For the authority of the general court to take land, etc., for relieving congestion of population and providing homes for citizens, see Amendments, Art. X ourt, see Amendments, Arts. XLI and XLIV. For the authority of the general court to provide by law for absentee and compulsory voting, see Amendments, Art. XLV, Amendment s, Art. LXI and Amendments, Art. LXXVI. For the power of the general court to determine the manner of providing and distributing the necessaries of life, etc., during time of war, public distress, etc., by the Commonwealth and the cities and towns, t herein, see Amendments, Art. LXVII. For provisions relative to taking the vote on emergency measures, see Amendments, Arts. XLVIII, Th e Referendum, II, and LXVII. 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The power of the general court to prescribe the terms and conditions u treeholders and other inhabitants of this common wealth, qualified as in this constitution is provided, to vote in all elections, forty persons to be councillors and senators for the year ensuing th eir election; to be chosen by the inhabitants of the districts, into which the commonwealth may from time to time be divided by the general court for that purpose: and the g eneral court in assigning the numbers to be electe d by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; a nd timely make known to the inhabitants of the co mmonwealth, the limits of each district, and the number of councillors and senators to be chosen therein; provided tha t the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators. [See Amendmen ts, Arts. XIII, XVI, XXII, LXIV, LXXI, CXII, CI and CIX.] Article III. The senate shall, in the general court, be the judges of the returns, elections, and qualifications of its own members, as pointed ou t; and shall, on the said last Wednesday in May [annually], or it s first meeting after the said day, elect a president, a clerk, and such other officers, as they shall judge necessary, and shall make rules for the orderin g and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land. Article V. The governor, with advice of council, shall have full power and authority, during the session of the general court to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same ndments, Art. XLVIII, The Initiative, II, sec. 2.] Article IV. The governor shall have authority from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, agreeably to the constitution and the laws of the land. Article V. The governor, with advice of council, shall have full power and authority, during the session of the general court to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same gue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same: and in case of any infectious distemper prevailing in the place where the said court is next at any tim e, the governor, with the advice of council, may direct the session to be held at some other, the most convenient place within the state. [And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.] [See Amendments, Arts. X, LXXII and LXXV.] Article VI. In cases of disagreement between the two house s, with regard to the necessity, expediency or time of adjournm ent, or prorogation, the governor, with the advice o f the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require. Article VII. [The governor of this commonwealth for the time being, shall be the commander in chief of the army and navy, and of all the military forces of the state, by sea and lan d, and shall have full power by himself, or by any comman der, or officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and a ny other state or country, that may attempt to disturb the peace of the commonwealth; and for the better effecting whereof, he is empowered, from time to time, to command the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as ma y be necessary to march or transport them by land or water, for the defence of such part of the state, to which they cannot otherwise conveniently have access.] [Annulled and superseded by Amendments, Art. LIV.] Article VIII. [The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council: but no charter of pardon, granted by the gov ernor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.] [Annulled and superseded by Amendments, Art. LXXIII.] Article IX. All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by an d also to impose and levy, reasonable duties and excises, upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and dispose d of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necess ary defence and support of the government of the said com monwealth, and for the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. 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