THE CONSTITUTION OF NEW
HAMPSHIRE AS AMENDED BY THE
CONSTITUTIONAL CONVENTION HELD
AT CONCORD ON THE FIRST
WEDNESDAY OF DECEMBER, A. D. 1876

Published @ 2017 Trieste Publishing Pty Ltd

#### ISBN 9780649166039

The constitution of New Hampshire as amended by the Constitutional convention held at Concord on the first Wednesday of December, A. D. 1876 by The Constitutional Convention

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THE CONSTITUTION OF NEW
HAMPSHIRE AS AMENDED BY THE
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AT CONCORD ON THE FIRST
WEDNESDAY OF DECEMBER, A. D. 1876



### THE STATE OF NEW HAMPSHIRE.

IN CONSTITUTIONAL CONVENTION HELD AT CONCORD, ON THE FIRST WEDNESDAY OF DECEMBER, IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SIX.

Following is the Constitution, as altered and amended by the convention,—the words printed in the text in *italics* being words inserted by the Convention, and the figures in the text referring to marginal notes, where the words stricken out by the convention are given.

#### CONSTITUTION OF NEW HAMPSHIRE.

#### PART FIRST.

#### BILL OF RIGHTS.

ARTICLE 1. All men are born equally free and independent; therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

ART. 2. All men have certain natural, essential, and inherent rights,—among which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and, in a word, of seeking and obtaining happiness.

ART. 3. When men enter into a state of society, they surrender up some of their natural rights to that society in order to insure the protection of others; and without such an equivalent the surrender is void.

ART. 4. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

ART. 5. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason; and 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, sentiments, or persuasion,—provided he doth not disturb the public peace, or disturb others in their religious worship.

ART. 6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society by the institution of the public worship of the Deity, and of public instruction in morality and religion;—therefore, to promote those important purposes, the people of this state have a right to empower, and do hereby fully empower, the legislature to authorize, from time to time, the several towns, parishes, bodies corporate, or religious societies, within this state, to make adequate provision, at their own expense, for the support and maintenance of public (1) teachers of piety, religion, and morality.

Provided, notwithstanding, That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person, of any one particular religious sect or denomination, shall ever be compelled to pay toward the support of the teacher or teachers of another persuasion, sect, or

denomination.

And every denomination of Christians, demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain and be in the same state as if this con-

stitution had not been made.

ART. 7. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign, and independent state, and do and forever hereafter shall exercise and enjoy every power, jurisdiction, and right pertaining thereto, which is not or may not hereafter be by them expressly delegated to the United States of America in congress assembled.

ART. 8. All power residing originally in and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable

to them.

ART. 9. No office or place whatsoever in government shall be hereditary,—the abilities and integrity requisite in all not

being transmissible to posterity or relations.

ART. 10. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men,—therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old or establish a new government.

<sup>1.</sup> The word "protestant" stricken out.

. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

ART. 11. All elections ought to be free, and every inhabitant of the state, having the proper qualifications, has equal right

to elect and be elected into office.

ART. 12. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty, and property. He is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent.

ART. 13. No person who is conscientiously scrupulous about the lawfulness of bearing arms shall be compelled thereto, pro-

vided he will pay an equivalent.

ART. 14. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without any

delay; conformably to the laws.

ART. 15. No subject shall be held to answer for any crime 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 produce all proofs that may be favorable to himself, to meet the witnesses against him face to face, and to be fully heard in his defence by himself and counsel. 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.

ART. 16. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment (excepting for the government of the army and navy, and

militia in actual service) without trial by jury.

ART. 17. In criminal prosecutions, the trial of the facts in the vicinity where they happen is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed,—except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court that an impartial trial cannot be had in the county where the offence may be committed, and, upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

ART. 18. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences. For the same reason, a multitude of sanguinary laws is both impolitic and unjust,-the true design of all punishments being to reform, not to exterminate mankind.

ART. 19. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, 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 a warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or object of search, arrest, or seizure; and no warrant ought to be issued but in cases and with the formalities prescribed by law.

ART. 20. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, and except in cases in which the value in controversy does not exceed one hundred dollars and title of real estate is not concerned, the parties have a right to trial by jury; and this method of procedure shall be held sacred, unless, in cases arising on the high seas, and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

ART. 21. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to [be] fully compensated for their travel, time, and attendance.

ART. 22. The LIBERTY OF THE PRESS is essential to the security of freedom in a state; it ought, therefore, to be invio-

lably preserved.

ART. 23. Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.

ART. 24. A well regulated militia is the proper, natural, and sure defence of a state.

ART. 25. Standing armies are dangerous to liberty, and ought not to be raised or kept up, without the consent of the legislature.

ART. 26. In all cases, and at all times, the military ought to be under strict subordination to, and governed by, the civil

power.

ART. 27. No soldier, in time of peace, shall be quartered in any house without 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.

ART. 28. No subsidy, charge, tax, impost, or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in

the legislature, or authority derived from that body.

ART. 29. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

ART. 30. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

ART. 31. The legislature shall assemble for the redress of public grievances, and for making such laws as the public good

may require.

ART. 32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instruction to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

ART. 33. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or

unusual punishment.

ART. 34. No person can, in any case, be subjected to lawmartial, or to any pains or penalties by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

ART. 35. 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 judges as impartial as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well,—

subject, however, to such limitations on account of age as may be provided by the constitution of the state,—and that they should have honorable salaries, ascertained and established by

standing laws.

ART. 36. Economy being a most essential virtue in all states, especially in a young one, no pension should be granted but in consideration of actual services; and such pensions ought to be granted with great caution by the legislature, and never for

more than one year at a time.

ART. 37. In the government of this state, the three essential powers thereof,—to wit, the legislative, executive, and judicial,—ought to be kept as separate from and independent of each other as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of

union and amity.

ART. 38. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government. The people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives; and they have a right to require of their law-givers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

## PART SECOND.

#### FORM OF GOVERNMENT.

ARTICLE I. The people inhabiting the territory formerly called the Province of New Hampshire, 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 State of New Hampshire.

#### General Court.

ART. 2. The supreme legislative power within this state shall be vested in the Senate and House of Representatives, each of which shall have a negative on the other.

ART. 3. The Senate and House shall assemble biennially(1) on the first Wednesday of June, and at such other times as they may judge necessary, and shall dissolve and be dissolved seven days next preceding the said first Wednesday of June,

z. The words "every year" stricken out.

and shall be styled THE GENERAL COURT OF NEW HAMP-

ART. 4. The General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, plaints, actions, causes, matters, and things whatsoever, arising or happening within this state, or between or concerning persons inhabiting or residing, or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed, and for the awarding and issuing execution thereon; to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations for the better discovery of truth in any matter in controversy,

or depending before them.

ART. 5. And further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof, and to name and settle biennially(1), or provide by fixed laws for the naming and settling of, all civil officers within this state, -such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for,-and to set forth the several duties, powers, and limits of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments, and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of and residents within the said state, and upon all estates within the same,-to be issued and disposed of by warrant under the hand of the governor of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. Pro-

z. The word "annually" stricken out.