Rhode Island Recommindatory Amendments, 29 May 1790

WE THE DELEGATES OF THE PEOPLE of the State of Rhode Island and Providence Plantations, duly elected and met in Convention, having maturely considered the Constitution for the United States of America, agreed to on the seventeenth day of September, in the Year one thousand seven hundred and eighty seven, by the Convention then assembled at Philadelphia, in the Commonwealth of Pennsylvania (a Copy whereof precedes these presents) and having also seriously and deliberately considered the present situation of this State, do declare and make known:

1st. That there are certain natural rights, of which men when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of Life and Liberty, with the means of acquiring, possessing and protecting Property, and pursuing and obtaining happiness and safety.

2d. That all power is naturally vested in, and consequently derived from the people; that magistrates therefore are their trustees and agents, and at all times amenable to them.

3d. That the powers of government may be reassumed by the people, whensoever it shall become necessary to their happiness.—That the rights of the States respectively, to nominate and appoint all state Officers, and every other power, jurisdiction and right, which is not by the said constitution clearly delegated to the Congress of the United States or to the departments of government thereof, remain to the people of the several states, or their respective State Governments to whom they may have granted the same, and that those clauses in the said constitution which declare that Congress shall not have or exercise certain powers, do not imply, that Congress is entitled to any powers not given by the said constitution, but such clauses are to be construed as exceptions to certain specified powers, or as inserted merely for greater caution.

4th. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, and not by force or violence, and therefore all men, have an equal, natural and unalienable right to the free exercise of religion, according to the dictates of conscience, and that no particular religious sect or society ought to be favoured, or established by law in preference to others.

5th. That the legislative, executive and judiciary powers of government, should be separate and distinct, and that the members of the two first may be restrained from oppression, by feeling and participating the publick burthens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections, in which all or any part of the former members, to be eligible or ineligible, as the rules of the constitution of government and the laws shall direct.

6th. That elections of representatives in legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to the community ought to have the right of suffrage, and no aid, charge, tax or fee can be set, rated or levied upon the people without their own consent or that of their representatives so elected, nor can they be bound by any law, to which they have not in like manner assented for the publick good.

7th. That all power of suspending laws or the execution of laws, by any authority without the consent of the representatives of the people in the legislature, is injurious to their rights, and ought not to be exercised.

8th. That in all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence and be allowed counsel in his favour, and to a fair and speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

9th. That no freeman ought to be taken, imprisoned or disseized of his freehold, liberties, privileges, or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property but by the trial by jury, or by the law of the land.

10th. That every freeman restrained of his liberty, is intitled to a remedy, to enquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed.

11th. That in controversies respecting property, and in suits between man and man the antient trial by jury, as hath been exercised by us and our ancestors, from the time whereof the memory of man is not to the contrary, is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolate.

12th. That every freeman ought to obtain right and justice, freely and without sale, completely and without denial, promptly and without delay, and that all establishments or regulations contravening these rights, are oppressive and unjust.

13th. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

14th. That every person has a right to be secure from all unreasonable searches and seizures of his person, his papers or his property, and therefore that all warrants to search suspected places or seize any person, his papers or his property, without information upon oath, or affirmation of sufficient cause, are grievous and oppressive, and that all general warrants (or such in which the place or person suspected, are not particularly designated,) are dangerous, and ought not to be granted.

15th. That the people have a right peaceably to assemble together, to consult for their common good, or to instruct their representatives, and that every person has a right to petition or apply to the legislature for redress of grievances.

16th. That the people have a right to freedom of speech and of writing, and publishing their sentiments, that freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

17th. That the people have a right to keep and bear arms, that a well regulated militia, including the body of the people capable of bearing arms, is the proper, natural and safe defence

of a free state; that the militia shall not be subject to martial law except in time of war, rebellion or insurrection; that standing armies in time of peace are dangerous to liberty, and ought not to be kept up, except in cases of necessity, and that at all times the military should be under strict subordination to the civil power; that in time of peace no soldier ought to be quartered in any house, without the consent of the owner, and in time of war, only by the civil magistrate, in such manner as the law directs.

18th. That any person religiously scrupulous of bearing arms, ought to be exempted, upon payment of an equivalent, to employ another to bear arms in his stead.

Under these impressions, and declaring, that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid, are consistant with the said constitution, and in confidence that the amendments hereafter mentioned, will receive an early and mature consideration, and conformably to the fifth article of said constitution, speedily become a part thereof. We the said delegates, in the name, and in the behalf of the People of the State of Rhode-Island and Providence-Plantations, do by these Presents, assent to and ratify the said Constitution. In full confidence nevertheless, that until the amendments hereafter proposed and undermentioned shall be agreed to and ratified, pursuant to the aforesaid fifth article, the militia of this state will not be continued in service out of this State for a longer term than six weeks, without the consent of the legislature thereof; That the Congress will not make or alter any regulation in this State, respecting the times, places and manner of holding elections for senators or representatives, unless the legislature of this state shall neglect, or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that in those cases, such power will only be exercised, until the legislature of this State shall make provision in the Premises, that the Congress will not lay direct taxes within this State, but when the monies arising from the impost, Tonnage and Excise shall be insufficient for the publick exigencies, nor until the Congress shall have first made a requisition upon this State to assess, levy and pay the amount of such requisition, made agreeable to the census fixed in the said constitution, in such way and manner, as the legislature of this State shall judge best, and that the Congress will not lay any capitation or poll tax.

Done in Convention, at Newport in the County of Newport, in the State of Rhode-Island and Providence-Plantations, the twenty ninth day of May, in the Year of our Lord one thousand seven hundred and ninety, and in the fourteenth Year of the Independence of the United States of America.

By order of the Convention,

Daniel Owen President

Attest, Daniel Updike Secty

And the Convention, do in the name and behalf of the People of the State of Rhode-Island and Providence Plantations, enjoin it upon their Senators and Representative or Representatives, which may be elected to represent this State in Congress, to exert all their influence, and use all reasonable means to obtain a ratification of the following Amendments to the said Constitution, in the manner prescribed therein, and in all laws to be passed by the Congress in the mean time, to conform to the spirit of the said amendments, as far as the constitution will admit.

Amendments.

1st. The United States shall guarantee to each State its sovereignty, freedom and independence, and every power, jurisdiction and right which is not by this constitution expressly delegated to the United States.

2d. That Congress shall not alter, modify or interfere in the times, places or manner of holding elections for Senators and Representatives or either of them, except when the legislature of any state shall neglect, refuse or be disabled by invasion or rebellion to prescribe the same; or in case when the provision made by the states, is so imperfect as that no consequent election is had, and then only until the legislature of such state, shall make provision in the premises.

3d. It is declared by the Convention, that the judicial power of the United States in cases in which a state may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a state; but to remove all doubts or controversies respecting the same, that it be especially expressed as a part of the constitution of the United States, that Congress shall not directly or indirectly, either by themselves or through the judiciary, interfere with any one of the states, in the redemption of paper money already emitted and now in circulation, or in liquidating or discharging the publick securities of any one state, that each and every state shall have the exclusive right of making such laws and regulations for the before mentioned purpose, as they shall think proper.

4th. That no amendments to the constitution of the United States hereafter to be made, pursuant to the fifth article, shall take effect, or become a part of the constitution of the United States after the year one thousand seven hundred and ninety three, without the consent of eleven of the states heretofore united under one confederation.

5th. That the judicial powers of the United States shall extend to no possible case, where the cause of action shall have originated before the ratification of this constitution, except in disputes between states about their territory, disputes between persons claiming lands under grants of different states, and debts due to the United States.

6th. That no person shall be compelled to do military duty, otherwise than by voluntary enlistment, except in cases of general invasion, any thing in the second paragraph of the sixth article of the constitution, or any law made under the constitution to the contrary notwithstanding.

7th. That no capitation or poll-tax shall ever be laid by Congress.

8th. In cases of direct taxes, Congress shall first make requisitions on the several states to assess, levy and pay their respective proportions of such requisitions, in such way and manner, as the legislatures of the several states shall judge best; and in case any state shall neglect or refuse to pay its proportion pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest at the rate of six per cent. per annum, from the time prescribed in such requisition.

9th. That Congress shall lay no direct taxes, without the consent of the legislatures of three fourths of the states in the Union.

10th. That the journals of the proceedings of the Senate and house of Representatives shall be published as soon as conveniently may be, at least once in every year, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy.

11th. That regular statements of the receipts and expenditures of all publick monies, shall be published at least once a year.

12th. As standing armies in time of peace are dangerous to liberty and ought not to be kept up, except in cases of necessity; and as at all times the military should be under strict subordination to the civil power, that therefore no standing army, or regular troops shall be raised, or kept up in time of peace.

13th. That no monies be borrowed on the credit of the United States without the assent of two thirds of the Senators and Representatives present in each house.

14th. That the Congress shall not declare war, without the concurrence of two thirds of the Senators and Representatives present in each house.

15th. That the words "without the consent of Congress" in the seventh clause in the ninth section of the first article of the constitution be expunged.

16th. That no judge of the supreme court of the United States, shall hold any other office under the United States, or any of them, nor shall any officer appointed by Congress, or by the President and Senate of the United States, be permitted to hold any office under the appointment of any of the states.

17th. As a traffick tending to establish or continue the slavery of any part of the human species, is disgraceful to the cause of liberty and humanity, that Congress shall, as soon as may be, promote and establish such laws and regulations, as may effectually prevent the importation of slaves of every description into the United States.

18th. That the State Legislatures have power to recall, when they think it expedient, their federal senators, and to send others in their stead.

19th. That Congress have power to establish a uniform rule of inhabitancy, or settlement of the poor of the different States throughout the United States.

20th. That Congress erect no company with exclusive advantages of commerce.

21st. That when two members shall move or call for the ayes and nays on any question, they shall be entered on the journals of the houses respectively.

Done in Convention at Newport in the County of Newport in the State of Rhode-Island and Providence Plantations, the twenty ninth day of May, in the year of our Lord one thousand seven hundred and ninety, and the fourteenth year of the independence of the United States of America.

By order of the Convention.

Daniel Owen President.

Attest Daniel Updike Secty

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