

Melancton Smith's Proposals in the New York Convention, 17 July 1788

Mr. SMITH's Motion in Convention.

THIS CONVENTION having deliberately and maturely examined and considered the proposed Constitution, reported to Congress by the Convention of Delegates from the United States of America, and submitted to their consideration by concurrent resolutions of the Senate and Assembly of the State of New-York, passed at their last session, DO, in the name and in the behalf of the PEOPLE of the STATE of NEW-YORK, declare,

That all freemen have essential rights, of which they cannot by any compact deprive or divest their posterity; among which are, the enjoyment of life, liberty and the pursuit of happiness.

That all power is originally vested in and consequently derived from the people; and that government is instituted for their common benefit, protection and security.

That in all cases in which a man may be subjected to a capital or infamous punishment, no one ought to be put on his trial unless on an indictment by a grand jury; and that, in all capital or criminal prosecutions, the accused hath a right to demand the cause and nature of his accusation, and witnesses;—to produce testimony and have counsel in his defence, and to a fair, public and speedy trial by an impartial jury of the county in which the crime was committed, without whose unanimous consent he ought not to be found guilty (except in the government of the land and naval forces), nor ought he to be compelled to give evidence against himself.

That no freeman ought to be taken, imprisoned, or disseized of his freehold, or be exiled or deprived of his privileges, franchises, life, liberty, or property, but by the law of the land.

That no person ought to be put in jeopardy of life or limb, or otherwise punished twice for one and the same offence, unless upon impeachment.

That every freeman, restrained in his liberty, is entitled to an enquiry into the lawfulness of such restraint, without denial or delay; and to a removal thereof, if unlawful.

That in all controversies respecting property, and in all suits between man and man, the ancient trial of facts by jury is one of the greatest securities of the rights of a free people, and ought to remain sacred and inviolate forever.

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

That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers, and his property, without information upon oath or affirmation of sufficient cause; and that all general warrants to search suspected places, or to apprehend any suspected

person, without specially describing or naming the place or person, are dangerous and oppressive, and ought not to be granted.

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

That the Freedom of the Press ought not to be violated or restrained.

That the militia should always be kept well organized, armed and disciplined, and include, according to past usages of the State, all the men capable of bearing arms, and ought not to be subject to martial law (except in time of war, invasion, or rebellion) and that in all cases the militia should be under strict subordination to the civil power.

That standing armies in time of peace are dangerous to liberty, and ought not to be kept up but in cases of absolute necessity.

That no soldier in time of peace 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 laws may direct.

That any person religiously scrupulous of bearing arms ought to be exempted therefrom, upon payment of an equivalent.

That the free and peaceable enjoyment of religious profession and worship is a natural and unalienable right, and ought never to be abridged or violated.

That nothing in the said Constitution is to be construed to prevent the Legislature of any State to pass laws from time to time to divide such State into as many convenient districts as the State shall be entitled to elect representatives for Congress; nor to prevent such Legislature from making provision that the electors in each district shall chuse a citizen of the United States, who shall have been an inhabitant of the district for the term of one year immediately preceding the time of election, for one of the representatives of such State.

That no power is to be exercised by Congress, but such as is expressly given by the said Constitution, and all other powers not expressly given, are reserved to the respective States to be by them exercised.

That the prohibition in the said Constitution against passing ex post facto laws, extend only to laws concerning criminals.

That all appeals from any Court, proceeding according to the course of the common law, are to be by writ of error and not otherwise.

That the judicial powers of the United States, as to controversies between citizens of the same State claiming lands under grants of different States, is not to be construed to extend to any other controversies than those relating to such lands as shall be claimed by two or more persons under grants of different States.

That nothing in the said Constitution contained, is to be construed to authorise any suit to be brought against any State in any manner whatever.

That the judicial powers of the United States in cases in which a State shall be a party, is not to be construed to extend to criminal prosecutions.

That the judicial power of the United States as to controversies between citizens of different States, is not to be construed to extend to any controversies relating to any real estate not claimed under grants of different States.

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