

Declaration of Rights and Constitution of the State of Frankland

A
DECLARATION OF RIGHTS
MADE BY

The Representatives of the Freeman of the State of Frankland.

- I. That all political power is vested in, [missing] derived from the people only.
- II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.
- III. That no man, or sett of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.
- IV. That the Legislative, Executive, and Supreme Judicial powers of government ought to be for ever separate an distinctive from each other.
- V. That all powers of suspending laws, or the execution of laws, by any authority, without the consent of the Representatives of the people, is injurious to their rights, and ought not to be exercised.
- VI. That election of members to serve as Representatives, in General Assembly, ought to be free.
- VII. That, in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

A 4

VIII.

Declaration of Rights.

VIII. That no freeman shall be put to answer any criminal charge but by indictment, presentment, or impeachment.

IX. That no freeman shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.

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

XI. That general warrants, whereby an officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

XII. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, or pri-[missing] es, or outlawed, or exiled, or in any manner de-[missing]ed or deprived of his life, liberty, or property, but by the law of the land.

XIII. That every freeman, restrained of his liberty, is entitled 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.

XIV. That in all controversies at law, respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

XV. That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

XVI. That the people of this State ought not to be taxed, or made subject to payment of any impost or duty, without the consent of themselves, or their representatives, in General Assembly, freely given.

XVII. That the people have a right to bear arms for the defence [sic] of the State; and as standing armies, in time of peace, are dangerous to liberty, the ought

not

not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

XVIII. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the Legislature for redress of grievances.

XIX. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.

XX. That, for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

XXI. That frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

XXII. That no hereditary emoluments, privileges, or honors, ought to be granted or conferred in this State.

XXIII. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

XXIV. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; therefore no *ex post facto* law ought to be made.

THE
CONSTITUTION
OR
FORM OF GOVERNMENT

Agreed to and resolved by the REPRESENTATIVES of the Freemen of the State of Frankland, elected and chosen for that particular purpose , in Convention assembled, at Greeneville, the 14th of Novem. 1785.

This State shall be called *The Commonwealth of Frankland*, and shall be governed by a General Assembly of the representatives of the freemen of the same, a Governor and Council, and proper courts of justice, in the manner following, *viz.*

Section I. The supreme legislative power shall be vested in a single house of Representatives of the freemen of the commonwealth of Frankland.

Sect. 2. The House of Representatives of the freemen of this State shall consist of persons most noted for wisdom and virtue, to be chosen equally and adequately according to the number of freemen in the commonwealth; provided when the number amounts to one hundred it shall never exceed it, nor be ever afterwards reduced lower than eighty, and every county shall send the number of apporportioned to it by the General Assembly.

Sect. 3. No person shall be eligible to, or hold a seat in the House of Representatives of the freemen

of

of this commonwealth, unless he actually resides in, and possesses land in the county to the quantity of one hundred Acres, or to the value of fifty Pounds, and is of the full age of twenty-one years. And no person shall be eligible or capable to serve in this or any other office in the civil department of this State, who is of an immoral character, or guilty of such flagrant enormities as drunkenness, gaming, profane swearing, lewdness, Sabbath-breaking, and such like; or who will, either in word or writing, deny any of the following propositions, *viz.*

1st, That there is one living and true God, the Creator and Governor of the universe.

2^d, That there is a future state of rewards and punishments.

3^d, That the scriptures of the Old and New Testaments are given by divine inspiration.

4th, That there are three divine persons in the Godhead, co-equal and co-essential.

And no person shall be a member of the House of Representatives, who holds a lucrative office either under this or other States; *that is*, has a fixed salary or fees from the State, or is in actual military service and claiming daily pay, or minister of the gospel, or attorney at law, or doctor of physic.

Sect. 4. Every free male inhabitant of this State, of the age of *twenty one* years, who shall have resided in this State six months immediately preceding the day of election, shall have a vote in electing all officers chosen by the people, in the county where he resides.

Sect. 5. The House of Representatives of this commonwealth shall be stiled [sic] the *General Assembly of the Representatives of the Freemen of Frankland*; and shall have power to choose their own Speaker, and all other officers, Treasurer, Secretary of State, superior Judges, Auditors, members to Congress. They shall have power to sit on their own adjournments; to prepare bills, and to enact them into laws; to judge of the elections of, and qualifications of, their own

members: They may expel a member, but not a second time for the same cause; they may administer oaths on the examination of witnesses, redress grievances, impeach State criminals, grant charters of incorporation, constitute towns, cities, boroughs, and counties, and shall have all other powers necessary for the Legislature of a free State or commonwealth. But they shall have no power to add, alter, abolish, or infringe any part of the Constitution.

Two thirds of the whole members elected shall constitute a House, (and the expence [sic] from the appointed time 'till they make a House, shall be laid on absentees, without reasonable excuse) and having met and chosen their Speaker, shall, each of them, before they proceed to business, take and subscribe, as well the oath of fidelity and allegiance hereafter directed, as the following oath—

“I *A. B.* do swear, That, as a member of this Assembly, I will not propose or assent to any bill or resolution, which shall appear to me injurious to the people, nor do, nor consent to any act or thing whatever, that shall have a tendency to lessen or abridge the rights and privileges as declared in the Constitution of this State; but will in all things conduct myself as a faithful honest Representative and guardian of the people, according to the best of my judgment and abilities. *So help me God.*”

The doors of the house in which the representatives of the freemen of this State shall sit in General Assembly shall be and remain open, for the admission of all persons who shall behave decently; except when the good of the commonwealth requires them to be shut.

Sect. 6. The votes and proceedings of the General Assembly shall be printed weekly, during their sitting, with the Yeas and Nays on any question, vote, or resolution, (except when the vote is taken by ballot) when any two members require it; and every member shall have a right to insert the reasons of his vote upon the Journals, if he desires it.

Sect.

Sect. 7. That laws, before they are enacted, may be more maturely considered, and the danger of hasty and injudicious determinations as much as possible prevented, all Bills of a public and general nature shall be printed for the consideration of the people, before they are read in General Assembly the last time, for debate and amendment; and, except on occasions of sudden necessity, shall not be passed into laws before the next session of Assembly: And, for the more perfect satisfaction o the public, the reasons and motives for making such laws shall be fully and clearly expressed in the preambles.

Sect. 8. The stile [sic] of the laws of this commonwealth shall be, *Be it enacted, and it is hereby enacted, by the Representatives of the Freemen of the commonwealth of Frankland, in General Assembly, and by the authority of the same.* And the General Assembly shall affix their seal to every Bill as soon as it is enacted into a law; which Seal shall be kept by the Assembly, and shall be called the *Seal of the Laws of Frankland* and shall not be used for any other purpose.

Sect. 9. As in every free government the people have a right of free suffrage for all officers of government that can be chosen by the people, the freemen of this State shall elect Governor and Counsellors [sic], Justices of the peace for each county, and Coroner or Coroners, Sheriffs, and all other such officers, except such as the Assembly are empowered to choose.

Sect. 10. All the able bodied men in this State shall be trained for its defence [sic], under such regulations, restrictions, and exceptions as the General Assembly shall direct by law, preserving always to the people, from the age of sixteen, the right of choosing their colonels, and all other officers under that rank, in such manner and as often as shall be by the same laws directed.

Sect. 11. The Governor of the State shall be annually chosen by the free suffrages of the people on the day of general election for Representatives for the General Assembly, and the returning officers for each county shall make a fair return to the House of

Represen-

Representatives, of the persons voted for, and the number of votes to each, which the Assembly shall examine, and the highest in votes shall be declared constitutionally elected; but no person shall be eligible more than three years out of seven, nor hold any other office at the same time.

Sect. 12. This State shall be divided into six grand divisions, each of which, as in the above mentioned section, shall choose a Counsellor: And these divisions shall be thrown into three classes, numbered 1st, 2^d, and 3^d, which shall change their members in Council by rotation, beginning with the first class the first year, after they have served one, and the second the second year, and so on forever; by which means some acquainted with business will be always in Council. And no person shall be eligible more than three years in seven, nor shall hold any other office in the State.

Sect. 13. The Governor and Council shall meet annually at the same time and place with the General Assembly: The Governor, or, in his absence, the Lieutenant Governor, who shall be one of their number chosen by the rest, with the Council, (two thirds of whom shall make a board) shall have power to correspond with other States: to transact business with the officers of government, civil military; to prepare such business as may appear to them necessary to be laid before the General Assembly: They shall also have power to grant pardons and remit fines, in all cases whatsoever, except in case of murder, impeachment, and treason, which they may reprieve till the end of the next session of Assembly; but where shall be no mitigation of punishment on impeachment, unless by act of the Legislature: They are to take care that the laws be faithfully executed; to expedite the execution of such measures as may be resolved upon the General Assembly: They may draw upon the Treasury for such sums as shall be appropriated by the House of Representatives—they may also lay embargos, or prohibit the exportation

of

of any commodity for any time not exceeding thirty days, in the recess of the General Assembly only:—They may grant licences [sic], as the laws shall direct, and shall have power to convene the House of Representatives, when necessary, before the day to which they were adjourned. The Governor shall be commander in chief of the forces of the State; but shall not command in person, except advised thereto by the Council, and then only so long as they shall approve of. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any Counsellor may enter his dissent, with his reasons in support of it.

Sect. 14. All commissions and grants shall be in the name and by the authority of the freeman of the commonwealth of Frankland, sealed with the State Seal, signed by the Governor, or, in his absence, the Lieutenant-Governor, and attested by the Secretary;— which Seal shall be kept by the Council.

Sect. 15. No Justice of the peace shall receive any fee, gratuity, or reward for his services as a Justice: But all other officers of this State shall be allowed as moderate fees or salaries as possible, to be an adequate compensation for their services. And if any officer shall take other or greater fees than the laws allow, it shall ever afterward disqualify him to hold any office in this State.

Sect. 16. Every officer of government shall be liable to be impeached by the General Assembly, or presented by the grand jury of any of the superior courts, either in office or after his resignation or removal, for mal-administration. All impeachments shall be before a temporary court, composed of the Governor or Lieutenant-Governor, and two members of the Council to be chosen by the Council; the three senior judges of the Supreme Court, and three members of the General Assembly to be chosen by the Assembly, who shall, or any five of them, hear and determine the same.

Sect.

Sect. 17. The Treasurer of State shall be annually appointed, and no person eligible more than three years successively. The Secretary of State, Attorney General, Auditors, and such like officers, shall be triennially; but removable for misconduct. And any officer, representative in General Assembly, or in the Congress of the United States, who is convicted of a second violation of any part of this Constitution, shall be for ever afterwards disqualified to hold any place or office in this State.

Sect. 18. That every in case, where any officer, the right of whose appointment is, by this Constitution, vested in the General Assembly, shall, during their recess, die, or his office, by other means, become vacant, the Governor shall have power, with the advice of the Council of State, to fill up such vacancy, by granting a temporary commission, which shall expire at the end of the next session of Assembly.

Sect. 19. That no Treasurer, until he shall have finally settled his accounts with the public, and paid the money remaining in his hand to the succeeding Treasurer, nor any person who heretofore has been, or hereafter may be, a Receiver of public monies under this or any other State, until he has fully accounted for and paid into the treasury all monies for which he may accountable and liable, shall have a seat in the General Assembly, or be eligible to any civil office in this State.

Sect. 20. The freemen of each county shall, for the purpose of ease, justice and conveniency [sic] in holding elections, and other public affairs, be divided into districts, as near one hundred in each as local circumstances will admit.

Sect. 21. The freemen of each district shall meet upon the second Tuesday of *February* forever, and at their first meeting elect three of their own members, who shall be called Registers, and who shall keep fair alphabetical roll of the freemen of their district. Any two of them agreeing, or upon advice of any five freemen, shall have power to assemble the

freemen

freemen of their district to consult for the common good, give instructions to their Representatives, or to apply to the Legislature for redress of grievances by address, petition, or remonstrance: They shall preside in all civil district elections, shall meet twice, or oftener, in the year, to deliberate upon and prepare to lay before the people such matters as may be necessary for them to consider. And, to keep up a rotation of the members, the person who shall have fewest votes at the first election, shall continue in office one year, the second two, and the highest three. And no Register shall be eligible for two years after he has served his term.

Sect. 22. That elections may be free, and corruption prevented as much as possible, the Registers of each district shall summon the freemen of their district to meet at some convenient place, upon the first Tuesday of *March* forever, where they shall elect, by ballot, all the officers for the district, which shall be hereafter directed, and the number of persons, indiscriminately, out of the county, appointed to represent it in the General Assembly, in the following manner—The senior Register shall call each freeman by name, in the order of the roll, who shall give his ticket or tickets to the second Register, and the highest in votes for district officers shall then be declared constitutionally elected; but the names of the persons to represent the county in General Assembly, and their respective number of votes, shall, by one of the Registers, be laid before a meeting of one from each district, within [missing]n days after the election,—and when all are examined, the highest in votes shall be declared constitutionally elected, and certified by the same Register. No freeman shall have, in this commonwealth, more than annual vote for any officer of government, and the Legislature hereafter to be appointed shall, from time to time, enact and keep in force such laws as may appear necessary to prevent and remedy every species of corruption, and to oblige freeman to attend upon elections.

Sect.

Sect. 23. Justices of the peace shall be elected for each county, ten or more, by the freemen, as shall, by the General Assembly, be thought necessary for each, of those residing within the same, and qualified as mentioned in *Sect. 3.* who shall be commissioned, during good behaviour, by the Governor or Lieutenant Governor in Council: And no Justice of the peace, or any other commissioned officer, shall hold his commission who misbehaves, or is found guilty of such things as disqualify; nor shall any one be chosen who is not a scholar to do the business, nor, unless acquainted with the laws of the country in some measure, but particularly with every article of the Constitution.

Sect. 24. To prevent the civil power usurping spiritual supremacy, the establishing of professions, denomination, or sects of religion, or patronizing ecclesiastical hierarchies and dignitaries, also to secure religious liberty and the rights of conscience for ever inviolate,—every citizen of this commonwealth shall forever have full and free liberty to join himself to any society of Christians he may judge most for his edification, and shall experience no civil or legal disadvantage for his so doing: And every society or congregation shall have full liberty, without any restraint from law, to choose any minister they think best suited for their Christian instruction, and to support him as they think best: And every such society or congregation shall have full right to hold all lands given to, or purchased by, them, for the use of their society, or any other property they may possess for religious purposes: And the society, or any description of men chosen by them, with power to act in their name, shall have power to receive, or to make and execute deeds, and enter into such other specialties as the society may direct them to make; and shall have full power, by their agent, treasurer, or collector, to receive, recover and retain all property and money justly due to them, in as full a manner as any other collector or agent in this commonwealth. And the future Legislature of this State shall have no power to make any

law,

law, act, or resolve whatsoever respecting religion or the spiritual service we owe to God; but shall confine themselves wholly to matter purely civil.

Sect. 25. Laws for the encouraging of virtue, and preventing and suppressing of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution.

Sect. 26. That no person in the State shall hold more than one lucrative office at any one time, provided that no appointment in the militia, or the office of the Justice of the peace, shall be considered as a lucrative office.

Sect. 27. All writs shall run in the name of the State of Frankland, and bear test, and be signed by the clerks of the respective courts. Indictments that conclude, *against the peace and dignity of the State.*

Sect. 28. That delegates of this State to the Continental Congress, while necessary, shall be chosen annually by the General Assembly, by ballot, but may be superseded, in the mean time, in the same manner; and no person shall be elected to serve in that capacity for more than three years successively.

Sect. 29. A Sheriff and Coroner shall be annually elected, on the day, and in the manner, for electing Representatives in General Assembly, who shall be commissioned as before mentioned; and no person shall be eligible more than two years out of five.— Also Commissioners, Assessors, Overseers of the poor, Surveyors of roads, and all such officers as each district may require, at the same time and in such number as in future may appear necessary to the Legislature.

Sect. 30. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall beailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great.

Sect. 31

Sect. 31. That every foreigner, who comes to settle in this State, having first taken an oath of allegiance to the same, may purchase, or, by other just means, acquire, hold, and transfer land or other real estate, and, after one year's residence, shall be deemed a free citizen.

Sect. 32. All kinds of useful learning shall be encouraged by this commonwealth, *that is to say*, the future Legislature shall erect, before the year seventeen hundred and eighty-seven, one University, which shall be near the centre of this State, and not in a city or town: And, for endowing the same, there shall be appropriated such lands as may be judged necessary, one fourth of all monies arising from the surveys of land hereafter to be made, one halfpenny upon every pound of inspected indigo, that shall be carried out of the State, by land or water; threepence upon every barrel of flour, and one shilling on every hogshead of tobacco, forever.* And, if the fund thence arising shall be found insufficient, the Legislature shall provide for such additions as may be necessary. And if experience shall make it appear to be useful to the interest of learning in this State, a Grammar School shall be erected in each county, and such sums paid by the public as shall enable the trustees to employ a master or masters of approved morals and abilities.

Sect. 33. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

Sect. 34. That the future Legislature of the State, shall regulate entails in such manner as to prevent perpetuities.

Sect. 35. That the Declaration of Rights is hereby declared to be a part of the Constitution of this State, and ought never be violated, on any pretence whatsoever.

Sect. 36. No tax, custom or contribution shall be imposed upon, or paid by, the people of this State, nor any appropriation of public monies made by the

Legisla-

*Dissented to, as is mentioned in the Preface.

Legislature, except by a law for that purpose; and the purposes for which the money is raised, and to which it is appropriated, shall be clearly expressed in the preamble. And, annually, the General Assembly shall publish a full account of all money paid into the Treasury, and by whom; also of all paid out of it, to whom, and for what.

Sect. 37. If any dispute or difference shall arise betwixt citizens, in matters of debt, property, character, or such things, the parties, agreeing to state their dispute, and leave it to arbitration, shall proceed in the following manner;—they shall apply by joint petition to the Registers of the district where the case exists, or the defendant lives, unless they shall otherwise agree, who shall name, in writing, twenty-four substantial freeman residing in the same, and the parties shall alternately strike out one until half are struck out, then the parties shall draw by lot such an odd number as they shall agree upon, out of the remainder, who, after taking oath to try the case in dispute without favor, affection, or partiality, shall hear and finally determine the same.

Sect. 38. The printing presses shall be free to every person who undertakes to examine the proceedings of the Legislature, or any person or part of government; and no prosecution shall commence against a printer for printing any thing whatsoever, provided he gives up the person's name.

Sect. 39. The Legislature shall take care to proportion punishments to the crimes, and may provide houses for punishing, by hard labor, those convicted of crimes not capital, wherein the criminals shall be employed, for the benefit of the public, or for the reparation of injuries done to private persons. All persons, at proper times, shall be admitted see the prisoners at their labor.

Sect. 40. The inhabitants of this State shall have liberty to fowl and hunt in seasonable times, on the lands they hold, and all others therein, not inclosed, and in like manner to fish in boatable waters, and others, not private property.

Sect.

Sect. 41. The Legislature hereafter to be chosen shall provide that marriages, in this commonwealth, be regularly and solemnly celebrated, between one man and one woman, before free and single.

Sect. 42. That this Constitution may be the better understood by the citizens of this commonwealth, and be more effectually kept inviolate to the latest ages, the future Legislature shall employ some person or persons, at the public expense, to draw it out into a familiar catechetical form, and the Registers shall take care that it be taught in all the schools within their respective districts; and shall further provide, that a sufficient number of the Constitution be printed, that each citizen may have one, as the inviolable charter of his privileges.

Sect. 43. The future Legislature shall choose and keep a chaplain during their session, if to be obtained, and shall annually invite some minister of the gospel to open their first session, after the annual election, with a sermon.

Sect. 44. The privileges and benefit of the writ of *Habeas Corpus* shall be enjoyed in this commonwealth, in the most free, easy, expeditious and ample manner, and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months: And, in all cases, every person shall enjoy the liberty of being heard by himself and his Counsel.

Sect. 45. In order that the freedom of this commonwealth may be preserved inviolate forever, there shall be chosen by the free suffrage of the freemen of this State, on the day of in the year one thousand seven hundred and ninety, and in every succeeding fifth year forever, twenty-four freeholders, two thirds of which shall constitute a board in every case, and known by the name of a *Council of Safety*, and shall meet on the day of next ensuing their election, who, during one year after said day, shall have full power, and their duty shall be, to enquire whether the Constitution has been

Preserved

preserved inviolate in very part; whether the Legislative, Executive, Judiciary and Military branches of government, and public servants, have faithfully performed their several duties, or whether they have assumed to themselves, or exercised, greater or other powers than they are entitled to by this Constitution, or neglected to exercise those with which they were invested. They are to enquire whether the public taxes have been justly laid and collected in every part of this commonwealth; in what manner the public money and property have been disposed of; and whether the laws have been duly exercised: For these the[missing] shall have the power to send for papers and records [to] recommend impeachments, and the repealing [such] laws shall appear contrary to the principles of [this] Constitution; they shall fix and regulate the salaries and fees of al civil officers: And no other powers shall they be invested with, or attempt to exercise. And no person shall be eligible as a member of this Council, who has held any civil office, (except a Justice of the peace and subaltern in the militia) for the space of two immediately preceding years, nor shall he hold any other office in government, whilst he is a member of Council.

Sect. 46. Estates shall not be entailed; and when a person dies intestate, his or her estate shall be equally divided among their children, considering the part every child before received in his or her portion: the widow shall have a child's share, or her dower, at her option. All other intestates estates, as may be directed by the future Legislature.

Sect. 47. This form of government shall be enrolled on parchment, and be deposited in the Secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of the commonwealth, in all future editions of the said laws.

A true copy of the Original.

Attested per Francis A. Ramsey, clerk.