

A Constitutional Review of New Hampshire Article 6

The Peoples Bill of Rights

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Voters’ Guide to Proposed Amendments in 1968 Removes “towns,” keeps “bodies corporate”	P1 A6	Adopted
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Analysis:

There has been considerable controversy over local control. Article 6 Part 1 of the Constitution guarantees the political independence of the towns and parishes from state interference with respect to both “public worship” and “public instruction.” This right was recognized in Hale vs. Everett in 1868 as being the people’s inalienable right.

The controversy continued as many were determined to amend Art. 6 and this effort was ongoing. The people rejected seven proposed constitutional amendments in a row from 1851 through 1920. They rejected these amendments, not because the people opposed the separation of church and state, but because the people opposed any loss of local control.

In 1851 a proposal was offered, which amended Art. 6 to protect religious societies only, along with the creation of language which amounted to the Claremont decision. The people rejected this proposal to their bill of rights and another proposal to amend P2 A83. These proposals specified state control and funding as well as proposed to change “legislators” to “legislature” creating a collective instead of an individual duty. These changes, the equivalent of Claremont, were rejected by the people.

In 1889 delegates to the constitutional convention removed “towns” and “bodies corporate” from any protection under Art. 6. Bodies corporate can be any incorporated school board or school district. This too was rejected. Again in 1902 the ConCon delegates proposed to remove “towns” from Art. 6 and that was rejected.

Having failed for a century to eliminate local control via constitutional amendment, those who favored state control turned to the courts to get what they could not get from the people. Over the next 66 years, a series of activist Supreme Court decisions de-facto restricted local control by deliberately misinterpreting Articles 6 and 83, ignoring 19th century precedent entirely and creating a new series of false “precedents.” The issue never coming to the people in the form of an amendment, the Court got away with it.

In Amyot v. Caron in 1937 the Court decided that the “exclusive” right clause in Article 6 given to municipalities to elect teachers suddenly was for teachers of morality and religion only.

Then in 1968, under the subterfuge of extensive propaganda that the changes offered were “non-substantive” in nature, removing only “obsolete sectarian references” were three words amounting to sectarian references removed from Article 6, along with 154 other words, including the word “town” but not “bodies corporate.” However, the centralizing forces did manage to put a comma between “bodies” and “corporate,” which throws a monkey wrench into the works. After all, a town is a “body corporate,” so the comma is necessary to muddy the waters.

The intent of the 1968 change, as presented to the voters, can be established from review of various state documents from the “Report to the Fifteenth Constitutional Convention” and “Voters’ Guide to the Proposed Amendments.” This is the method courts are supposed use to

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determine intent, though of course the Claremont court did not. Those documents demonstrate that our rights under Art. 6 remain intact, despite the extensive change in wording. The passage of CACR 14 will, however, obliterate local control. Misleading 20th century court precedent is being used to convince you that it's pretty much gone anyway. It is not, but our inalienable right to local control will be lost if CACR 14 passes.

Passage of CACR 14 would be a huge loss to the people and a detriment to all future generations, as power once lost will not be regained. The potential hazard is enormous, much like the Act of Uniformity in England in the 1550's. Only today there's no place to run.

THIRD CONSTITUTIONAL CONVENTION, 1781 **Adopted** by the People on June 2, 1784

Bill of Rights

Art. 6. Morality and Piety. (1784)

*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 protestant 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. [Exclusive Right clause] And no person of any one particular religious sect or denomination shall ever be compelled to pay towards 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. [Free Toleration clause]

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 constitution had not been made.

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FOURTH CONSTITUTIONAL CONVENTION, 1791
AMENDMENT SUBMITTED TO THE PEOPLE

First Vote May 7, 1792

Bill of Rights

P1 A6 1.) Provided conditions whereby persons who did not wish to contribute toward the maintenance of a minister might enter their objections and be exempted. Article 6 of Bill of Rights.

Yes 994 No 3,993 **Rejected**

BILL OF RIGHTS

That the following be added to the 6th article.

I.

But this shall not be construed to free a person from the obligation of his own contract, on his pretence of changing his religious persuasion after making the contract.

And whenever a minister is settled by any incorporated town or parish any person dissenting shall have liberty, either at the meeting or previous to the ordination of the minister, or within one month after the vote obtained for his settlement, to enter his dissent with the town or parish clerk against paying or contributing toward the support of such minister; and all minors who, after such settlement, shall come of age, and all inhabitants of such town or parish who are absent from the same at the time of such meeting or settlement, and all persons who, after such settlement, move into such town or parish to reside, shall have three months from the time of their coming of full age, returning into town, or moving in to reside as foresaid respectively to enter their dissent with the town or parish clerk as aforesaid.

And all persons who do not enter their dissent as aforesaid shall be bound by the major vote of such town or parish, and it shall be considered as their voluntary contract.

But all persons who enter their dissent as aforesaid shall not be bound by the vote of such town or parish, or considered as party to such contract, or in any way be compelled to contribute towards the support of the minister; nor shall any person be compelled to contribute towards the support of a minister who shall change from the sect or denomination of which he professed to be when he settled, to any other persuasion, sect, or denomination.

FIFTH CONSTITUTION CONVENTION, 1850
AMENDMENTS SUBMITTED TO THE PEOPLE

First Vote March 11, 1851

P1 A6 1.) Bill of Rights to be amended by many changes among which P1 A40 were:

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- (a) removal of words "evangelical" and "protestant".
- (b) **hiring of religious teachers limited to religious societies.**
- (c) contracts for the support of ministers to be excluded.
- (d) *Supreme Court substituted for Superior Court.*
- (e) *manner of trial on the high seas concerning property and mariners' wages not provided.*
- (f) *age limitation of justices not included. È*
- (g) *pensions may be granted for two years,*
- (h) *arrest on mesne process limited.*
- (i) *perpetuities forbidden - franchises and other privileges,*
- (j) **education to be encouraged.**

Yes 14,738 No 25,019 **Rejected [State control similar to Claremont]**

Bill of Rights

6. As morality and piety, rightly grounded on the principles of the Bible, 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 society by the institution of the public worship of the Deity, and of public instruction in morality and religion, therefore to promote accuse those important purposes, the People of this State have the right to empower, and do hereby fully empower, **the several religious societies [removing "towns" and "bodies corporate"]** which may at any time exist within this State, to make adequate provision, at their own expense, for the support and maintenance of public teachers of piety, religion and morality; provided, that such **religious societies [removing "towns" and "bodies corporate"]** 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 towards the support of the teacher, or teachers, of another persuasion, sect or denomination; and every religious denomination, demeaning themselves quietly, and as good subjects of the State, shall be quietly under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

40. Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to promote this end, it shall be the duty of the **legislature [changed from "legislators" in P1 A83]** and magistrates, in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools; to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments among the people.

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P2 A89-91 11.) *Do you approve of the amendment requiring the election of a superintendent of public instruction, as provided in the amended constitution?*

Yes 8,486 No 30,967 **Rejected** [State control similar to Claremont]

Encouragement of Literature, &c.

89. **The Legislature shall make provision for the establishment and maintenance of free common schools, at the public expense, and for the assessment and collection, annually, in the several towns and places in this State, of a sum not less than one hundred and twenty five dollars for every dollar of State taxes, apportioned to them respectively, to be applied exclusively to the support of such schools.**

90. *The supervision of public instruction shall be vested in a State Superintendent, and such other officers as the Legislature shall direct.*

91 *The State Superintendent shall be chose, biennially, by the qualified electors of the State, in such manner as the Legislature shall provide; his powers, duties and compensation shall be prescribed by law.*

**FIFTH CONSTITUTION CONVENTION (continued), 1850
AMENDMENTS SUBMITTED TO THE PEOPLE**

Second Vote March 9, 1852

P1 A6 1.) *To remove the word "Protestant" from the Bill of Rights.*

Yes 9,566 No 12,082 **Rejected**

NH Supreme Court ----- Hale v. Everett, 53 N.H. 9 (1868)

The inalienable right of "the several towns, parishes, bodies corporate, or religious societies" to elect their own public teachers was the issue in Hale v. Everett in 1868. The NH Supreme Court was asked to settle a dispute between various members of the First Unitarian Society of Christians in Dover. The disgruntled minority was opposing the decision of the majority to elect a particular teacher. The Court remarked:

And the constitution guarantees the political independence of towns no more explicitly or fully than it guarantees the ecclesiastical independence of parishes. This illustration is peculiarly

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*satisfactory, because the towns of New Hampshire were parishes nearly two hundred years, and the independence of the parochial capacity, as it was in provincial custom and law, and as delineated in the constitution of the state, is the same, whether exercised by "towns, parishes, bodies corporate, or religious societies."
Hale v. Everett (1868) 53 NH 9, pg. 250*

Electing one's teachers and contracting with them is constitutionally recognized as an inalienable right. It is not something in which the State has authority to interfere.

In 1784 the understanding was that public teachers taught that which they saw fit to teach, also based upon their conscience. If the parents in the town or parish didn't like what a teacher taught, they could elect a new one. The State government had no right to interfere in this contractual arrangement. Art. 6 was written for the explicit purpose of guaranteeing the political independence of towns and parishes from State interference.

The rights of conscience, which are held not only natural, essential, and inherent (Art. II, bill of rights), but also "unalienable," not capable of being surrendered voluntarily or of being surrendered voluntarily, or of being taken away or abridged by the government, "because no equivalent can be given or received for them" (Art. IV, bill of rights) ... Hale v. Everett (1868) 53 NH 9, pg. 10

SIXTH CONSTITUTIONAL CONVENTION, 1876 **AMENDMENTS SUBMITTED TO THE PEOPLE**

March 13, 1877

P1 A6 1.) To strike out the word "Protestant" in the Bill of Rights.

Yes 27,664 No 15,907 **Rejected**

1.) Do you approve of striking out the word "Protestant" in the bill of rights, as proposed in the amended constitution?

P2 A83 13.) To prohibit money raised by taxation from being applied to the support of schools or institutions of any religious sect or denomination.

Yes 35,838 No 6,606 **ADOPTED**

13.) Do you approve of the proposed amendment prohibiting money raised by taxation from

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being applied to the support of the schools or institutions of any religious sect or denomination as proposed in the amended constitution?

SEVENTH CONSTITUTIONAL CONVENTION, 1889
AMENDMENT SUBMITTED TO THE PEOPLE

March 12, 1889

P1 A6 6.) *To make the Bill of Rights non-sectarian.*

Yes 27,737 No 20,048 **Rejected**

6.) Do you approve of amending article 6 of the bill of rights making the same non-sectarian, as proposed in the amended constitution?

Art. 6. Strike out this article and insert the following:

*“Art 6. As morality and piety 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 these 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 religious societies [removing “towns” and “bodies corporate”]** within this state to make adequate provision, at their own expense, or the support and maintenance of public teachers of piety, religion, and morality.*

*“**The several religious societies [removing “towns” and “bodies corporate”]** 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 towards the support of the teacher or teachers of another persuasion, sect, or denomination.*

“and every religious sect or denomination 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.”

EIGHTH CONSTITUTIONAL CONVENTION, 1902
AMENDMENTS SUBMITTED TO THE PEOPLE

March 10, 1903

P1 A6 6. *Do you approve of amending the Bill of Rights by striking out the word “evangelical” before the word “principles” and inserting the word “Christian” and striking out the word*

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“Protestant” before the words “teachers of piety, religion and morality” and striking out the word “towns” in two places where the legislature is empowered to authorize “towns, parishes and religious societies” to support and maintain teachers of religion and morality; and striking out the words “and every denomination of Christians” and inserting the words “all religious sects and denominations” where equal protection of the law is assured;—as proposed in the amendment to the Constitution?

Yes 16,611 No 15,727 **Rejected**

*Art. 6. As morality and piety, rightly grounded on Christian 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 parishes, bodies corporate, or religious societies [removing “towns”]** within this state to make adequate provision, at their own expense, for the support and maintenance of public teachers of piety, religion, and morality. Provided, notwithstanding, that **the several parishes, bodies corporate, or religious societies [removing “towns”]** 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. All religious sects and denominations, 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 constitution had not been made.*

NINTH CONSTITUTIONAL CONVENTION, 1912

AMENDMENTS SUBMITTED

November 5, 1912

P1 A6 6.) “Protestant” to be stricken out in the Bill of Rights whereby the legislature has power to authorize the towns, etc. to make adequate provision at their own expense, for the support and maintenance of public Protestant teachers of piety, religion, and morality.

Yes 16,555 No 14,315 **Rejected**

6. Do you approve of amending the Bill of Rights by striking out the words “rightly grounded on evangelical principles” after the words “As morality and piety,” and striking out the word

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“Protestant” before the words “teachers of piety, religion, and morality”; --as proposed in the amendment to the Constitution?

Amendment No. 6.

*Resolved, That Article 6 of the Bill of Rights of the Constitution be amended by striking out in lines one and two of the first paragraph the words “rightly grounded on evangelical principles,” and in line thirteen of the same paragraph the word “Protestant,” so that as amended the said article six shall read as follows: Art. 6. As morality and piety 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 these 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 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 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 effect 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 Constitution had not been made.*

TENTH CONSTITUTIONAL CONVENTION, 1918
AMENDMENTS SUBMITTED TO THE PEOPLE
FIRST VOTE NOVEMBER 2, 1920

P1 A6 6.) Do you approve of amending the Bill of Rights by striking out the words “rightly grounded on evangelical principles” after the words “As morality and piety,” striking out the word “Protestant” before the words “teachers of piety, religion and morality”?

Yes 37,100 No 33, 796 **Rejected**

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NH Supreme Court ---- Amyot v. Caron 88 N.H. 394 (1937)

The exclusive right given municipalities by the Constitution, Pt. I, art. 6 to elect “their own public teachers” refers only to teachers of morality and religion. Pg. 395

Report to the

FIFTEENTH CONSTITUTIONAL CONVENTION by the

COMMISSION TO STUDY THE STATE CONSTITUTION

Established Under Chapter 186 Laws of 1963

Introduction

During the 19th Century, the people of the New Hampshire called three Constitutional Conventions and adopted seventeen amendments, eight of which might be classed as major changes in the Constitution. This is the eighth Convention to be called during the 20th Century. The people have adopted twenty-two amendments submitted by the previous seven, but only four of these might be considered of major importance.

The fact that the people have continued to call Conventions suggests that they will support further changes in their Constitution. A study of the proceedings of recent Conventions reveals that the delegates have been unsure of what changes the people wanted, and how far they were expected to go in proposing amendments. For these reasons, both the 1948 and 1956 Conventions recommended that a commission be set up to prepare for any future Conventions. For the first time, the 1963 legislature followed this recommendation by creating this Commission.

The legislative mandate of this Commission is to study the constitution of the state and recommend to the Constitutional Convention such amendments as are needed We have studied the Constitution and talked to the people, both in private conversations, and in various public hearings throughout the state. Our recommendations to the Convention are unanimous decisions by the Commission. Our study convinces us that the basic structure of the New Hampshire Constitution is good. No complete revision is necessary.

The needs we find are problems of long standing. We were surprised, and gratified, to find a widespread public awareness of these needs. We believe the voters actively desire the amendments we are recommending.

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In a sense the changes we are suggesting constitute a coherent modernization, though not a fundamental revision. All three major branches of New Hampshire's government – legislative, executive, and judicial – are affected, and their problems are inter-related. Both the needs we find and the remedies we suggest can be divided into three broad categories: First, those pertaining to the structural nature of our government; second, those pertaining to fiscal affairs and efficient administrative management; third, those pertaining to certain overdue corrections in the constitution itself.

We believe that the 1964 Convention will be the most constructive one of this century, and we hope that our report will be of some assistance in achieving this goal.

...archaic but directly in conflict with federal law. Still worse are those provisions in our Bill of Rights which show partiality to "every denomination of Christians," but especially to "Protestants" who believe in "evangelical principles." Not only are these sectarian references needlessly offensive to other denominations, but they clearly violate the First and Fourteenth Amendments to the United States Constitution.

We recommend the removal of these and all other obsolete or imperative provisions from our constitution. We suggest, moreover, that these proposals be considered together and , if accepted by the convention, referred to the voters at an election when they can be considered **apart from all proposals of a substantive nature.** This was the policy followed in 1950 and again in 1958, and we think it was wise.

SECTARIAN REFERENCES

Still other provisions are inoperative not so much because they are obsolete – though most of them are – but because they violate the U. S. Constitution and laws. This is most obviously true of the sectarian references in Article 6 of the Bill of Rights. In order to promote "morality and piety, rightly grounded on evangelical principles," the legislature is given power 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 Protestant teachers of piety, religion, and morality." Finally, it is only "every denomination of Christians, demeaning themselves quietly, and as good subjects of the state," who are declared to be "equally under the protection of the law."

It is hard to imagine a more flagrant violation of the separation of church and state which is so deeply embedded in the American constitutional tradition. Under the First and Fourteenth Amendments to the Federal Constitution, neither Congress nor the states are allowed to make any law "respecting an establishment of religion." In the New Hampshire Constitution the same principle is expressed in Article 6: "And no subordination of any one sect or denomination to another, shall ever be established by law." It is hard to see how any one of the "several towns" can provide for the support of a "public Protestant teacher of piety, religion and morality" without showing an official preference for that faith over others, even if non-Protestants are excused from contributing to this support. The provision in Article 6 which extends equal protection of the law to "every denomination of Christians demeaning themselves quietly"

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avoids the taint of sectarianism, so far as the Christian faith is concerned, but it gives needless offense to non-Christians. It also violates that clause of the Fourteenth Amendment which forbids any state to “deny to any person within its jurisdiction the equal protection of the laws.” In the eyes of the United States Constitution, all persons, regardless of race, creed, or color, are under the equal protection of the laws.

We recommend, therefore, that Article 6 be amended by striking out the first sentence (including the proviso) and the last sentence and redrafting the rest so that the article, as amended, shall then read:

[Art.] 6th. The several parishes, bodies corporate, or religious societies shall at all times, have the exclusive right of electing their own teachers, and of contracting with them for their support and maintenance. But no person shall ever be compelled to pay towards the support of the Schools of any sect or denomination.

And every person shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established.

Nothing of religious freedom would be lost, because “rights of conscience” are already fully protected in Articles 4 and 5. Between 1850 and 1920 six successive constitutional conventions voted to eliminate some of all of the sectarian references in Article 6. On four of the six occasions –1876, 1889, 1902, and 1912 – more than one-half of the people voting on the issue approved the change but never the two-thirds majority required to put it into effect. In 1920 a proposal to strike the word “Protestant” from Article 6 was voted down by a majority of the voters, and since that time no convention has ventured to make another attempt. It is time the people of New Hampshire were given another chance to purge their constitution of the last traces of religious discrimination.

VOTERS' GUIDE

TO PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE STATE OF NEW HAMPSHIRE

To Appear on a Special Ballot at Election
on November 5, 1968

Questions one through six
Recommended by the 15th Constitutional Convention
At its sessions of May 13-June 10, and July 8, 1964

And
Questions seven through ten
Recommended by the

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1967 session of the General Court
QUESTION NO. 3

3. Are you in favor of amending Article 6 of Part I of the Constitution so as to strike out certain specific sectarian references and further amending said Article to read as follows:

*"Art. 6th. As morality and piety, rightly grounded on high 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, therefore, **the several parishes, bodies, corporate, [unauthorized comma, without which it recognizes towns] or religious societies [removing "towns"]** shall at all times have the right of electing their own teachers, and of contracting with them for their support or maintenance or both. But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination. And every person, denomination or sect shall be equally under the protection of the law; and no subordination of any one sect, denomination or persuasion to another shall ever be established. ever be established."?*

NOW -- AT THE PRESENT TIME, Article 6 authorizes local public taxation for the support of "Protestant" clergymen only [**not true; it also authorized towns in 1968**], and promises equal protection of the law solely to "every denomination of Christians". While these provisions may have had some reason in 1783 when adopted, they are now obsolete and dead provisions, also liable to be offensive to good citizens of Catholic and Jewish faiths, as well as to all disciples of freedom of conscience. These provisions are obviously contrary to the Fourteenth Amendment of the U.S. Constitution.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Questions No. 3, the above-described sectarian references will be stricken from the state constitution, putting all religious denominations on a basis of equality and removing the present conflict with the U.S.

Constitution. It should be emphasized that this amendment does not introduce any new substantive restrictions on the relation between Church and State; the second sentence merely paraphrases a provision which has been contained in Article 83, Part II of the state constitution since 1877, but adds nothing to it. An amendment similar to this one has several times received a popular majority but failed to get the necessary 2/3 vote. The Convention believes that now is the time to give final approval to what the 20th Century has made obvious.

FIFTEENTH CONSTITUTIONAL CONVENTION, 1968
AMENDMENTS SUBMITTED TO THE PEOPLE
FIRST VOTE NOVEMBER 5, 1968

P1 A6 3. (Res 33) Are you in favor of amending Article 6 of Part 1 of the Constitution so as to strike out certain specific sectarian references and further amending said Article to read as follows:

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*"Art. 6th. As morality and piety, rightly grounded on high 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, therefore, **the several parishes, bodies corporate, [notice the absence of an unauthorized comma] or religious societies [removing "towns"]** shall at all times have the right of electing their own teachers, and of contracting with them for their support or maintenance or both. But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination. And every person, denomination or sect shall be equally under the protection of the law; and no subordination of any one sect, denomination or persuasion to another shall ever be established."*

Yes 142,112 No 67,697 67.73% **ADOPTED**

SIXTEENTH CONSTITUTIONAL CONVENTION, 1974 RESOLUTIONS NOT SUBMITTED TO THE PEOPLE

BILL OF RIGHTS

P1 A40 149. State support of elementary and secondary education.

Resolution No. 149, relating to elementary and secondary education. Providing that the state shall provide where necessary support and maintenance for elementary and secondary public schools to assure that all children have an educational opportunity of equal quality. Bill of Rights.

Inexpedient to amend the Constitution. [Rejected - State control similar to Claremont]

ENCOURAGEMENT OF LITERATURE, ETC.

P2 A83-a 105. Educational legislation to require state funding.

Resolution No. 105, relating to educational funding. Providing that the legislature shall not enact any law relative to education without providing for the full funding of same.

Inexpedient to amend the Constitution. [Rejected - State control similar to Claremont]

"The intent of this amended resolution was considered laudable; however the committee felt this should be accomplished through the legislative process."

P2 A83 77. Free education limited to essential subjects.

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Resolution No. 77, relating to restricting free elementary and secondary education. Providing that free elementary and secondary education in the public schools of the state and payment of state educational aids be restricted to those subjects and activities found essential by the legislature; permitting school districts to impose tuition charges for nonessential subjects.

Inexpedient to amend the Constitution. [Rejected - State control similar to Claremont]

“It was the unanimous opinion of the committee that this was a legislative matter rather than one for a constitutional amendment.”

THE SUPREME COURT OF NEW HAMPSHIRE

Merrimack

No. 92-711

CLAREMONT SCHOOL DISTRICT & a.

v.

GOVERNOR & a.

December 30, 1993

1. **Constitutional Law--New Hampshire Constitution--Education** Encouragement of Literature clause of New Hampshire Constitution imposes a duty on the State to provide a constitutionally adequate education to every educable child and to guarantee adequate funding. N.H. CONST. pt. 2, art. 83.
2. **Constitutional Law--New Hampshire Constitution--Education** Language in New Hampshire Constitution that "it shall be the duty of the legislators and magistrates . . . to cherish . . . public school" is not merely a statement of aspiration; such language commands, in no uncertain terms, that the State provide an education to all its citizens and that it support all public schools. N.H. CONST. pt. 2, art. 83.
3. **Constitutional Law--New Hampshire Constitution--Education** While it is clearly within the power of the State to delegate some of the implementation of its constitutional duty to support public schools to local governments, such power does not include a right to abdicate the obligation imposed by the Constitution. N.H. CONST. pt. 2, art. 83.
4. **Constitutional Law--New Hampshire Constitution--Education** In New Hampshire a free public education is at the very least an important, substantive right. N.H. CONST. pt. 2, art. 83.
5. **Constitutional Law--New Hampshire Constitution--Education** Right to an adequate education mandated by New Hampshire Constitution is not based on the exclusive needs of a particular individual, but rather is a right held by the public to enforce the State's duty; any citizen has standing to enforce this right. N.H. CONST. pt. 2, art. 83.

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