

## **Robert Whitehill's Proposed Amendments to the Constitution in the Pennsylvania Ratification Convention, 12 December 1787**

ROBERT WHITEHILL: On this assertion Mr. Whitehill quoted the following passage from Mr. Mason's objections: "There is no declaration of any kind for preserving the liberty of the press, the trial by jury in civil causes, nor against the danger of standing armies in time of peace."

Mr. Whitehill then read, and offered as the ground of a motion for adjourning to some remote day, the consideration of the following articles, which he said might either be taken collectively as a bill of rights, or separately as amendments to the general form of government proposed.

1. The rights of conscience shall be held inviolable, and neither the legislative, executive, nor judicial powers of the United States shall have authority to alter, abrogate, or infringe any part of the constitutions of the several states, which provide for the preservation of liberty in matters of religion.
2. That in controversies respecting property, and in suits between man and man, trial by jury shall remain as heretofore, as well in the federal courts, as in those of the several states.
3. That in all capital and criminal prosecutions, a man has a right to demand the cause and nature of his accusation, as well in the federal courts, as in those of the several states; to be heard by himself or his counsel; to be confronted with the accusers and witnesses, to call for evidence in his favor, and a speedy trial, by an impartial jury of the vicinage, without whose unanimous consent, he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.
4. That excessive bail ought not to be required nor excessive fines imposed, nor cruel or unusual punishments inflicted.
5. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and shall not be granted either by the magistrates of the federal government or others.
6. That the people have a right to the freedom of speech, of writing, and of publishing their sentiments, therefore, the freedom of the press shall not be restrained by any law of the United States.
7. That the people have a right to bear arms for the defense of themselves and their own state, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; and that the military shall be kept under strict subordination to and be governed by the civil power.

8. The inhabitants of the several states shall have liberty to fowl and hunt in seasonable times, on the lands they hold, and on all other lands in the United States not enclosed, and in like manner to fish in all navigable waters, and others not private property, without being restrained therein by any laws to be passed by the legislature of the United States.

9. That no law shall be passed to restrain the legislatures of the several states, from enacting laws for imposing taxes, except imposts and duties on goods exported and imported, and that no taxes, except imposts and duties upon goods imported and exported, and postage on letters shall be levied by the authority of Congress.

10. That elections shall remain free, that the House of Representatives be properly increased in number and that the several states shall have power to regulate the elections for Senators and Representatives, without being controlled either directly or indirectly by any interference on the part of Congress, and that elections of Representatives be annual.

11. That the power of organizing, arming, and disciplining the militia (the manner of disciplining the militia to be prescribed by Congress) remain with the individual states, and that Congress shall not have authority to call or march any of the militia out of their own state, without the consent of such state and for such length of time only as such state shall agree.

12. That the legislative, executive, and judicial powers be kept separate, and to this end, that a constitutional council be appointed to advise and assist the President, who shall be responsible for the advice they give (hereby, the Senators would be relieved from almost constant attendance); and also that the judges be made completely independent.

13. That no treaties which shall be directly opposed to the existing laws of the United States in Congress assembled shall be valid until such laws shall be repealed or made conformable to such treaty, neither shall any treaties be valid which are contradictory to the Constitution of the United States, or the constitutions of the individual states.

14. That the judiciary power of the United States shall be confined to cases affecting ambassadors, other public ministers and consuls, to cases of admiralty and maritime jurisdiction, to controversies to which the United States shall be a party, to controversies between two or more states—between a state and citizens of different states—between citizens claiming lands under grants of different states, and between a state or the citizens thereof and foreign states, and in criminal cases, to such only as are expressly enumerated in the Constitution, and that the United States in Congress assembled shall not have power to enact laws, which shall alter the laws of descents and distributions of the effects of deceased persons, the title of lands or goods, or the regulation of contracts in the individual states.

15. That the sovereignty, freedom, and independency of the several states shall be retained, and every power, jurisdiction and right which is not by this Constitution expressly delegated to the United States in Congress assembled.

Some confusion arose on these articles being presented to the chair, objections were made by the majority to their being officially read, and, at last, Mr. Wilson desired that the intended motion might be reduced to writing, in order to ascertain its nature and extent. Accordingly, Mr. Whitehill drew it up, and it was read from the chair in the following manner.

“That this Convention do adjourn to the \_\_\_\_\_ day of \_\_\_\_\_ next, then to meet in the city of Philadelphia, in order that the propositions for amending the proposed Constitution may be considered by the people of this state; that we may have an opportunity of knowing what amendments or alterations may be proposed by other states, and that these propositions, together with such other amendments as may be proposed by other states, may be offered to Congress, and taken into consideration by the United States, before the proposed Constitution shall be finally ratified.” [Dallas’ Debates, Pennsylvania Herald, 15 December]

Cite as: The Documentary History of the Ratification of the Constitution Digital Edition, ed. John P. Kaminski, Gaspare J. Saladino, Richard Leffler, Charles H. Schoenleber and Margaret A. Hogan. Charlottesville: University of Virginia Press, 2009.  
Canonic URL: <http://rotunda.upress.virginia.edu/founders/RNCN-02-02-02-0003-0002-0020>  
[accessed 06 Jan 2011]  
Original source: Ratification by the States, Volume II: Pennsylvania