

## Virginia Ratification Debates, 27 June 1788

<Another engrossed form of the gratification agreed to on Wednesday last, containing the proposed Constitution of Government, as recommended by the Federal Convention on the seventeenth day of *September*, one thousand seven hundred and eighty seven, being prepared by the Secretary, was read, and signed by the President in behalf of the Con[ven]tion.>

On motion, *Ordered*, That the said ratification be deposited by the Secretary of this Convention in the archives of the General Assembly of this State.

Mr. *Wythe* reported, from the Committee appointed, such amendments to the proposed Constitution of Government for the United States, as were by them deemed necessary to be recommended to the consideration of the Congress which shall first assemble under the said Constitution, to be acted upon according to the mode prescribed in the fifth article thereof; and he read the same in his place, and afterwards delivered them in at the Clerk's table, where the same were again read, and are as followeth:

That there be a Declaration or Bill of Rights asserting and securing from encroachment the essential and unalienable rights of the people in some such manner as the following:

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 Government ought to be instituted for the common benefit, protection and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive to the good and happiness of mankind.

4th. That no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge, or any other public office to be hereditary.

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 public 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 the 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 public 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 criminal and capital 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 favor, 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 law of the land.

10th. 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 nor delayed.

11th. That in controversies respecting property, and in suits between man and man, the ancient trial by jury, is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolable.

12th. That every freeman ought to find a certain remedy by recourse to the laws for all injuries and wrongs he may receive in his person, property, or character. He ought to obtain right and justice freely 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 and unusual punishments inflicted.

14th. That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers, and property: all warrants therefore to search suspected places, or seize any freeman, his papers or property, without information upon oath (or affirmation of a person religiously scrupulous of taking an oath) of legal and sufficient cause, are grievous and oppressive, and all general warrants to search suspected places, or to apprehend any suspected person without specially naming or describing the place or person, are dangerous and ought not to be granted.

15th. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their Representatives; and that every freeman has a right to petition or<sup>5</sup> 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 the 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 composed of the body of the people trained to arms, is the proper, natural and safe defence of a free State. That standing armies in time of peace are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the community will admit; and that in all cases, the military should be under strict subordination to and governed by the civil power.

18th. 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 in such manner only as the laws direct.

19th. 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.

20th. 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, 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 favored or established by law in preference to others.

#### AMENDMENTS to the CONSTITUTION.

1st. That each State in the Union shall respectively retain every power, jurisdiction and right, which is not by this Constitution delegated to the Congress of the United States, or to the departments of the Federal Government.

2d. That there shall be one Representative for every thirty thousand, according to the enumeration or census mentioned in the Constitution, until the whole number of Representatives amounts to two hundred; after which that number shall be continued or increased as Congress shall direct, upon the principles fixed in the Constitution, by apportioning the Representatives of each State to some greater number of people from time to time as population increases.

3d. When the Congress shall lay direct taxes or excises, they shall immediately inform the Executive power of each State, of the quota of such State according to the census herein directed, which is proposed to be thereby raised; and if the Legislature of any State shall pass a law which shall be effectual for raising such quota at the time required by Congress, the taxes and excises laid by Congress, shall not be collected in such State.

4th. That the Members of the Senate and House of Representatives shall be ineligible to, and incapable of holding any civil office under the authority of the United States, during the time for which they shall respectively be elected.

5th. That the journals of the proceedings of the Senate and House of Representatives shall be published at least once in every year, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy.

6th. That a regular statement and account of the receipts and expenditures of all public money, shall be published at least once in every year.

7th. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the Members of the Senate; and no treaty, ceding, contracting, restraining or suspending the territorial rights or claims of the United States, or any of them, or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity, nor shall any such treaty be ratified without the concurrence of three fourths of the whole number of the Members of both Houses respectively.

8th. That no navigation law or law regulating commerce shall be passed without the consent of two-thirds of the Members present, in both Houses.

9th. That no standing army or regular troops shall be raised, or kept up in time of peace, without the consent of two-thirds of the Members present, in both Houses.

10th. That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war.

11th. That each State respectively shall have the power to provide for organizing, arming, and disciplining its own militia, whensoever Congress shall omit or neglect to provide for the same. That the militia shall not be subject to martial law, except when in actual service in time of war, invasion or rebellion, and when not in the actual service of the United States, shall be subject only to such fines, penalties and punishments, as shall be directed or inflicted by the laws of its own State.

12th. That the exclusive power of Legislation given to Congress over the Federal Town and its adjacent district, and other places, purchased or to be purchased by Congress of any of the States, shall extend only to such regulations as respect the police and good government thereof.

13th. That no person shall be capable of being President of the United States for more than eight years in any term of sixteen years.

14th. That the Judicial power of the United States shall be vested in one Supreme Court, and in such Courts of Admiralty as Congress may from time to time ordain and establish in any of the different States: The Judicial power shall extend to all cases in law and equity arising under treaties made, or which shall be made under the authority of the United States; to all cases affecting Ambassadors, other foreign Ministers and Consuls; to all cases of Admiralty and Maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, and between parties claiming lands under the grants of different States. In all cases affecting Ambassadors, other foreign Ministers and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction; in all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, as to matters of law only; except in cases of equity, and of Admiralty and Maritime jurisdiction, in which the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make: But the Judicial power of the United States shall extend to no 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 the grants of different States, and suits for debts due to the United States.

15th. That in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury.

16th. 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.

17th. That those clauses which declare that Congress shall not exercise certain powers, be not interpreted in any manner whatsoever, to extend the powers of Congress; but that they be construed either as making exceptions to the specified powers where this shall be the case, or otherwise, as inserted merely for greater caution.

18th. That the laws ascertaining the compensation of Senators and Representatives for their services, be postponed in their operation, until after the election of Representatives

immediately succeeding the passing thereof; that excepted, which shall first be passed on the subject.

19th. That some tribunal other than the Senate be provided for trying impeachments of Senators.

20th. That the salary of a Judge shall not be increased or diminished during his continuance in office otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress.

AND the Convention do, in the name and behalf of the people of this Commonwealth, enjoy it upon their Representatives in Congress to exert all their influence and use all reasonable and legal methods to obtain a RATIFICATION of the foregoing alterations and provisions in the manner provided by the fifth article of the said Constitution; and in all Congressional laws to be passed in the mean time, to conform to the spirit of these amendments as far as the said Constitution will admit.

And so much of the said amendments as is contained in the first twenty articles, constituting the Bill of Rights, being again read;

*Resolved*, That this Convention doth concur therein.

The other amendments to the said proposed Constitution, contained in twenty one articles, being then again read, a motion was made, and the question being put, to amend the same by striking out the third article, containing these words;

“When Congress shall lay direct taxes or excises, they shall immediately inform the Executive power of each State, of the quota of such State according to the census herein directed, which is proposed to be thereby raised; and if the Legislature of any State shall pass a law which shall be effectual for raising such quota at the time required by Congress, the taxes and excises laid by Congress shall not be collected in such State.”

It passed in the negative,—Ayes 65—Noes 85.

On motion of Mr. *George Nicholas*, seconded by Mr. *Benjamin Harrison*, the ayes and noes on the said question were taken as followeth;

AYES—Mr. George Parker, Mr. George Nicholas, Mr. Wilson Nicholas, Mr. Zachariah Johnson, Mr. Archibald Stuart, Mr. William Dark, Mr. Adam Stephen, Mr. Martin M’Ferran, Mr. James Taylor (of Caroline), Mr. David Stuart, Mr. Charles Simms, Mr. Humphrey Marshall, Mr. Martin Pickett, Mr. Humphrey Brooke, Mr. John Shearman Woodcock, Mr. Alexander White, Mr. Warner Lewis, Mr. Thomas Smith, Mr. John Stewart, Mr. Daniel Fisher, Mr. Alexander Woodrow, Mr. George Jackson, Mr. John Prunty, Mr. Abel Seymour, His Excellency Governor Randolph, Mr. John Marshall, Mr. Nathaniel Burwell, Mr. Robert Andrews, Mr. James Johnson, Mr. Rice Bullock, Mr. Burdet Ashton, Mr. William Thornton, Mr. Henry Towles, Mr. Levin Powell, Mr. William Overton Callis, Mr. Ralph Wormeley, jun., Mr. Francis Corbin, Mr. William M’Clerry, Mr. James Webb, Mr. James Taylor (of Norfolk), Mr. John Stringer, Mr. Littleton Eyre, Mr. Walter Jones, Mr. Thomas Gaskins, Mr. Archibald Woods, Mr. James Madison, Mr. James Gordon (of Orange), Mr. William Ronald, Mr. Thomas Walke, Mr. Anthony Walke, Mr. Benjamin Wilson, Mr. John Wilson, Mr. William Peachey, Mr. Andrew Moore, Mr. Thomas Lewis, Mr. Gabriel Jones, Mr. Jacob Rinker, Mr. John Williams, Mr. Benjamin Blunt, Mr. Samuel Kello, Mr. John Allen, Mr. Cole Digges, Mr. Bushrod Washington, The Hon. George Wythe, and Mr. Thomas Mathews.

NOES—The Honorable Edmund Pendleton, Esq; President, Mr. Edmund Custis, Mr. John Pride, Mr. William Cabell, Mr. Samuel Jordan Cabell, Mr. John Trigg, Mr. Charles Clay, Mr. William Fleming, Mr. Henry Lee (of Bourbon), Mr. John Jones, Mr. Binns Jones, Mr. Charles Patteson, Mr. David Bell, Mr. Robert Alexander, Mr. Edmund Winston, Mr. Thomas Read, the Honorable Paul Carrington, Mr. Benjamin Harrison, the Honorable John Tyler, Mr. David Patteson, Mr. Stephen Pankey, jun., Mr. Joseph Michaux, Mr. French Strother, Mr. Joseph Jones, Mr. Miles King, Mr. Joseph Haden, Mr. John Early, Mr. Thomas Arthurs, Mr. John Guerrant, Mr. William Sampson, Mr. Isaac Coles, Mr. George Carrington, Mr. Parke Goodall, Mr. John Carter Littlepage, Mr. Thomas Cooper, Mr. William Fleete, Mr. Thomas Roane, Mr. Holt Richeson, Mr. Benjamin Temple, Mr. James Gordon, (of Lancaster), Mr. Stephens Thompson Mason, Mr. William White, Mr. Jonathan Patteson, Mr. John Logan, Mr. Henry Pawling, Mr. John Miller, Mr. Green Clay, Mr. Samuel Hopkins, Mr. Richard Kennon, Mr. Thomas Allen, Mr. Alexander Robertson, Mr. Walter Crocket, Mr. Abraham Trigg, Mr. Solomon Shepherd, Mr. William Clayton, Mr. Burwell Bassett, Mr. Matthew Walton, Mr. John Steele, Mr. Robert Williams, Mr. John Wilson, Mr. Thomas Turpin, Mr. Patrick Henry, Mr. Edmund Ruffin, Mr. Theodorick Bland, Mr. William Grayson, Mr. Cuthbert Bullit, Mr. Walker Tomlin, Mr. William M'Kee, Mr. Thomas Carter, Mr. Henry Dickenson, Mr. James Monroe, Mr. John Dawson, Mr. George Mason, Mr. Andrew Buchanan, Mr. John Hartwell Cocke, Mr. John Howell Briggs, Mr. Thomas Edmonds, the Honorable Richard Cary, Mr. Samuel Edmison, and Mr. James Montgomery.

And then the main question being put that this Convention doth concur with the Committee in the said amendments;

It was resolved in the affirmative.

On motion, *Ordered*, That the foregoing amendments be fairly engrossed upon parchment, signed by the President of this Convention, and by him transmitted, together with the ratification of the Fœderal Constitution, to the United States in Congress assembled.

<On motion, *Ordered*, That a fair engrossed copy of the Ratification of the Federal Constitution, with the subsequent amendments this day agreed to, signed by the President, and attested by the Secretary of this Convention, be transmitted by the President, in the name of the Convention, to the Executive or Legislature of each State in the Union.

*Ordered*, That the Secretary do cause the Journal of the proceedings of this Convention to be fairly entered in a well bound book, and after being signed by the President, and attested by the Secretary, that he deposit the same in the archives of the Privy Council or Council of State.

On motion, *Ordered*, That the Printer to this Convention do strike forthwith fifty copies of the Ratification and subsequent amendments of the Fœderal Constitution, for the use of each County in the Commonwealth.

On motion, *Ordered*, That the Public Auditor be requested to adjust the accounts of the Printer to the Convention for his services, and of the workman who made some temporary repairs and alterations in the New-Academy, for the accommodation of the Convention, and to grant his warrant on the Treasurer for the sum due the respective claimants.

On motion, *Resolved*, unanimously, That the thanks of the Convention be presented to the President, for his able, upright, and impartial discharge of the duties of that office.

Whereupon the President made his acknowledgment to the Convention for so distinguished a mark of its approbation.

And then the Convention adjourned "*sine die*."

Signed,

EDMUND PENDLETON, President.

Attest.

JOHN BECKLEY, Secretary.>

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