

North Carolina Demands a Declaration of Rights ^[1]

Proceedings and Debates of the Convention of North-Carolina, Convened at Hillsborough, on Monday the 21st Day of July, 1788, for the Purpose of Deliberating and Determining on the Constitution Recommended by the General Convention at Philadelphia, the 17th Day of September, 1787: To Which is Prefixed the Said Constitution (Edenton, N.C.: Hodge and Wills, 1789).

Resolved, That a Declaration of Rights, asserting and securing from encroachment ^[2] the great principles of civil and religious liberty, and the unalienable ^[3] rights of the people, together with amendments to the most ambiguous ^[4] and exceptionable parts of the said Constitution of government ought to be laid before Congress, and the Convention of the states that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification ^[5] of the Constitution aforesaid on the part of the state of North-Carolina.

Declaration of Rights.

1st. That there are certain natural rights, of which men, when they form a social compact, cannot deprive ^[6] or divest their posterity ^[7], 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 ^[8] from the people; that magistrates ^[9] therefore are their trustees and agents, and at all times amenable ^[10] 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 ^[11] 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 ^[12] 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 ^[13], 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 ^[14] evidence of permanent common interest with, and attachment to the community, ought to have the right of suffrage ^[15]; and no aid, charge, tax or fee can be set, rated or levied ^[16] 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 ^[17] 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 ^[18] to their rights and ought not to be exercised.

Compare to Amendments VI and VII.

8th. That in all capital and criminal 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 favour, and to a fair and speedy trial by an impartial jury of his vicinage ^[19], without whose unanimous ^[20] 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.

Compare to Amendment IV.

9th. That no freeman ought to be taken, imprisoned, or disseised 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.

Compare to Amendment V.

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.

Compare to Amendment VII.

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 ^[21] and inviolable ^[22].

Compare to Amendment VI.

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.

Compare to Amendment VII.

13th. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Compare to Amendment IV.

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 to [apprehend](#) any suspected person without specially naming or describing the place or person, are dangerous and ought not to be granted.

Compare to Amendment I.

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 apply to the legislature for [redress](#) ^[23] of [grievances](#) ^[24]. *Compare to Amendment I.* 16th. That the people have a right to freedom of speech, and of writing and publishing their [sentiments](#) ^[25]; that the freedom of the press is one of the greatest [bulwarks](#) ^[26] of liberty, and ought not to be violated.

Compare to Amendment II.

17th. That the people have a right to keep and bear arms; that a well regulated [militia](#) ^[27], 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.

Compare to Amendment III.

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](#) ^[28] of bearing arms ought to be exempted, upon payment of an equivalent to employ another to bear arms in his stead.

Compare to Amendment I.

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 favoured or established by law in preference to others.

Amendments to the Constitution.

I. *Compare to Amendment X.*

- That each state in the union shall respectively retain every power, [jurisdiction](#) ^[29] and right, which is not by this constitution delegated to the Congress of the United States, or to the departments of the federal government.
- II. [That there shall be one representative for every 30,000](#) according to the [enumeration](#) ^[30] 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](#) ^[31] the representatives of each state to some greater number of people, from time to time, as population encreases.
- III. When Congress shall lay direct taxes or [excises](#) ^[32], 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](#) ^[33] for raising such quota at the time required by Congress, the taxes and excises laid by Congress shall not be collected in such state.
- IV. 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.
- V. 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.
- VI. That a regular statement and account of receipts and expenditures of all public monies shall be published at least once in every year.
- VII. That no commercial treaty shall be [ratified](#) ^[34] without the [concurrence](#) ^[35] 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.
- VIII. That no [navigation](#) ^[36] law, or law regulating [commerce](#) ^[37], shall be passed without the consent of two-thirds of the members present in both houses.
- IX. 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.

- X. 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.
- XI. 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.
- XII. [That Congress shall not declare any state to be in rebellion, without the consent of at least two-thirds of all the members present of both houses.](#)
- XIII. That the exclusive power of legislation given to Congress over the federal town and its [adjacent](#) ^[38] 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.
- XIV. [That no person shall be capable of being president of the United States for more than eight years in any term of sixteen years.](#)
- XV. [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.
- XVI. 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.
- XVII. 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.
- XVIII. 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](#) ^[39] either as making exceptions to the specified powers where this shall be the case, or otherwise, as inserted merely for greater caution.
- XIX. [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.
- XX. That some tribunal, other than the senate, be provided for trying impeachments of senators.
- XXI. That the salary of a judge shall not be encreased 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](#) ^[40] by Congress.
- XXII. That Congress erect no company of merchants with exclusive advantages of commerce.
- XXIII. 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; nor shall any treaty be valid which is contradictory to the constitution of the United States.
- XXIV. That the latter part of the 5th paragraph of the 9th section of the first article be altered to read thus--Nor shall vessels bound to a particular state be [obliged](#) ^[41] to enter or pay duties in any other; nor when bound from any one of the states be obliged to clear in another.
- XXV. That Congress shall not directly or indirectly, either by themselves or through the judiciary, interfere with any one of the states in the redemption of paper money already emitted and now in circulation, or in liquidating and discharging the public securities of any one of the states, but each and every state shall have the exclusive right of making such laws and regulations for the above purposes as they shall think proper.
- XXVI. That Congress shall not introduce foreign troops into the United States without the consent of two-thirds of the members present of both houses.

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3 January 2018

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