# ROBERT WHITEHILL

## And the Struggle for Civil Rights

*By*

Robert G. Grist

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Because of its long association with the area where Robert Whitehill lived the Lemoyne Trust Company welcomes the opportunity to publish as a community service this account of the West Shore's first fourteen years as a part of the new Republic.


In furthering its aim of compiling, preserving and disseminating the rich store of history of Cumberland County, this Association periodically invites members and others to present papers before its meetings. One or more of such papers is printed in booklet form for distribution to the members each year.

Of the papers presented during the 1957-1958 season, the Association is happy to be able to present herewith that prepared by Robert G. Crist of Camp Hill on the life and service of Robert White-hill, who was an outstanding personality in the formative years of Cumberland County and a noted statesman and patriot. The Association feels that this is a definite and valuable contribution to our store of local history and that it is worthy of a place on every historical bookshelf.

Because of the close connection of Robert Whitehill with the formation and adoption of the Federal Bill of Rights — a connection which does honor not only to him but to Cumberland County which he represented — Hamilton Library has thought it appropriate to include in this booklet a copy of the Bill of Rights.

In the publication and distribution of this booklet the Hamilton Library has been materially and generously assisted by the Lemoyne Trust Company, of Lemoyne, Pennsylvania.

Elected Representatives of Cumberland County

(1750 - 1750)

Provincial Assembly

Joseph Armstrong ....1750
Hermanus Alricks ....1750

Daniel Williams .....1751
William Trents .....1751

Joseph Armstrong —1752
John Armstrong ..... 1752

Joseph Armstrong ..... 1753
John Armstrong ..... 1753
Joseph Armstrong -1754
John Smith ..... 1754

Joseph Armstrong ... ...1755
John Smith ..... 1755

William West .....1756
William Allen .....1757
**John** Stanwix, M.P. .....1757

William Allen .....1759
John Smith ..... 1759

William Allen ..... 1760

John Byers ..... 1761

William Allen ..... 1762
James Galbraith ..... 1762

William Allen .....1763-1775
John Montgomery —1763-1775

Jonathan Hoge ..... 1776

State Assembly

Hugh Alexander ....1776
James Brown ..... 1776-1777
William Clark ..... 1776-4777
William Duffield ..... 1776-1777
James McLean ..... 1776 -1777

Robert Whitehill — ... 1776-1777*
John Harris ..... 1777-1781

James McLean ..... 1777
John Allison ..... 1778

Patrick Maxwell ..... 1778
Stephen Duncan ..... 1778
Jonathan Hoge ..... 1778-1782
James Dunlap ..... 1778

Samuel Culbertson -1779-1781
John Harris ..... 1779-1781
William McDowell -1779
Abraham Smith ..... 1779 -1781
Ephraim Steel ..... 1779

Frederick Watts ..... 1779

John Allison ..... 1780-1781

John Andrews ..... 1780-1781
William Brown ..... 1780-1784
Stephen Duncan ..... 1780-1782
Patrick Maxwell ..... 1780--1782

John Carothers ..... 1782-1783

James Johnston ..... 1782-1783
James McLene ..... 1782

Abraham Smith ..... 1783
William Brown Esq. . 1783
Frederick Watts ..... 1783-1785

Robert Whitehill 1776..... Robert W

John Harris .....

John Carothers .....
John Creigh .....

Thomas Beale .....
Thomas Kennedy .....
David Mitchell .....

John Oliver .....

Jonathan Hoge .....

* Elected in 1779 for 3-year term on Supreme Executive Council.
** Assemblymen could serve only 4 years out of 7.

# CHAPTER I - Eclipse

"Every man in Cumberland County is a rioter at heart," lamented Governor John Penn the year he ordered his family's land in Lowther Manor subdivided and sold. The concurrence of his remark and his order to sell may have been mere chance, but young Penn in this instance established himself as seer and prophet. When he used the word "rioter" he spoke of the seething Scotch-Irish, who were virtually the only group then living in the County.

During their most turbulent period the Scotch-Irish on the frontier chose as their principal spokesman a member of their own clan, the third patentee of Lowther Manor, Robert Whitehill.

Whitehill and his associates during the thirty-seven years in which he represented them earned more opprobrious names than "rioter." Penn himself might later have used stronger language, for it was from Scotch-Irish insistence that the new State government in 1779 confiscated about 21 million acres from the Penn heirs, leaving only 500,000 or so in Proprietary Manors to the family. Because Lowther Manor had been created as a "tenth" prior to national independence, it escaped expropriation. Thus, when the War of the Revolution ended, the Penn family retained title to about 4,200 acres, or half the Manor.

Between his death at the beginning of the nineteenth century and the twentieth century obscurity has overtaken Robert Whitehill. The public's verdict needs explanation, as does the opposite judgment of the learned editors of the Dictionary of American Biography to illuminate him by including only this one man, of the thousands who have lived in Lowther Manor, for a place in their authoritative work.

Several reasons for the neglect of Whitehill might be advanced: the eclipsing brilliance of his contemporaries; a tendency of historians to neglect his political faction in particular and losers in general (how much do we remember about a defeated presidential aspirant, Alton Parker?); and the scarcity of original letters and documents from his pen.

In the eighteenth century Whitehill's popularity met almost annual tests in a political constituency extending over an area half the size of Connecticut. Cumberland County, until Franklin County was created out of it in 1784, covered Franklin, all of mod-

em Perry, and parts of Mifflin, Juniata, an4 Huntingdon Counties.

Significance might be seen in the fact that Robert Whitehill rose to prominence during the year 1776, when the traditional leaders of the area were away from home participating in the civil and military affairs of the new nation. Political fences stood unmended. Even greater significance might be read into the fact that, once Whitehill supplanted the old leaders, these men never again could win elective office. The people selected Whitehill as their spokesman again and again. His predecessors could gain only appointive positions: James Wilson as the nominee of Assembly to Congress; Armstrong and Blaine as holders of generals' commissions that were conferred, not voted; Magaw and Montgomery, who, after national independence, could not win elections.

Cumberland County was the nest, perhaps the principal source, of the consistent opposition to the traditional conservative leadership exercised from Philadelphia. This is not to say that the county did not have some supporters of the Republican aristocracy, but that the county at large did not follow the lead of its traditional patricians. It supported Whitehill. In naming him the county leagued itself with the political party which organized and ran the State for fourteen years.

On the frontier in the eighteenth century a candidate, of course, won elections principally because voters thought well of him personally rather than because he bore any particular factional label. Parties were mere informal, unorganized coalitions in the beginning years. Nominating candidates was accomplished by gathering in a tavern on a Saturday night and choosing a person who could stand for office the following Tuesday. Whitehill was thus perhaps not the only man who could state truthfully that he "never intrigued for a nomination nor solicited a vote," as he was once quoted as saying. A farmer and an office-holder, he had little spare time to canvass votes throughout 2,700 square miles — Lowther Manor to Lewistown to Mercersburg.

Another obstacle to the documentation of the day-to-day doings of Robert Whitehill springs from the fact that he spent his career among scenes dominated by the Titans of America—Washington, Adams, Jefferson, and Franklin walked the streets of Philadelphia with him. Newspapers, usually mere reporterless appendages of printing shops, understandably neglected a Lowther Manor farmer.

Militating against publicity which we might read today was a press which supported his opponents, with a few strident exceptions. Finally, the standards of political warfare served to obscure him. An example was the 1787 Ratification Convention, where the recording secretary copied only the speeches of the majority party. Whitehill's remarks never appeared in the minutes at all.

Like so many of the Scotch-Irish, Whitehill was reared by a father who mixed governmental service and other occupations. Lancaster County assessment lists indicate that a James Whitehill (1700-1766) was both blacksmith and farmer. Apparently he arrived from Ulster about 1723, perhaps with his brother John. In the early years he married Anne Bradshaw and produced one son, James, who died in 1757. Before 1729 he married Rachel Creswell, who lived until 1795 and bore nine children. While farming the 60 cleared acres of his 400, James Whitehill received six times an appointment as "Squire" and twice the elective office of assessor.

The farm stood near the source of the Pequea Creek, on Henderson's Run, once known as "Whitehill's Run," two miles from the old road called "King's Highway." On the next farm stood the church where preached Robert Smith, D.D., a Neshaminy Log College graduate. Here was good fortune for the Whitehill children, for Presbyterian preachers doubled as teachers. At Smith's Pequea Academy* studied John Whitehill (1729-1815), later to be Assemblyman, Censor, and Congressman, and Robert, who had been born July 24, 1735. Perhaps others of the family studied here, too: David, who migrated to Centre County; Joseph, who adopted Virginia as home; and Elizabeth, who married James Moore, delegate to the 1776 Convention.

Robert's education continued in the academy at New London Crossroads operated by the Rev. Dr. Francis Alison, called by some "the Presbyterian Pope." Whitehill would have been remarkably impervious to have survived the Alison experience unaffected. The first American honored by a foreign doctorate, Alison was termed "the finest teacher of classics in America" by the President of Yale College and "a person of greatest ingenuity and learning" by Benjamin Franklin.

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* Among the early Princeton College presidents was a Pequea alumnus, Samuel Stanhope Smith. Henry McKinley, of the pioneer academy in Carlisle, was another.

With Alison* the student who could pay three pounds, 10 shillings tuition learned "Arithmetick, Euclid elements (and the) Practical branches of Mathematicks and Logick." Since Alison advocated making every pulpit a political rostrum and practiced his own dictum, students must have learned more than advertised. Alumni like Dickinson, Smith, Ross, and McKean, of the 1776 Continental Congress, showed their thorough education in the field of government.

Formal education completed, Whitehill in 1758 married Eleanor Reed (1734-1785), daughter of Col. Adam and Catherine Wood Reed, of Hanover Township, Lancaster County. Eleanor's sister was the second wife of John Harris, Jr., ferryman and founder of the city named for him.

The first son of Robert and Eleanor, appropriately named Adam, for his famous Indian fighter grandfather, was followed by Rachel, honoring the paternal side of the family. The eventual heir to the Manor lands, James, followed. (This James is to be distinguished from his first cousin, James, son of John Whitehill (1729-1815), who served in Congress after a hitch as one of the legion of militia generals in the War of 1812.) Robert Whitehill, Jr., born in 1768, was the Dickinson College graduate of 1792 who moved to Waynesburg in 1807 to make his home. In 1771 arrived Elizabeth, who married Col. Richard Moore Crain (1777-1852), of the Harrisburg Volunteer Artillery of 1812." A fourth daughter, Eleanor, and a fourth son, John, were born in 1775. Joseph, who died at 19, was the last in 1778.

By 1759 Robert Whitehill owned 100 acres in Lancaster County, of which he farmed 35, and another farm which was run by a James Carr. Eleven years later his holdings were 200 acres and two Negroes. During these years, unlike his father, he held no office in Lancaster County except a special one, the nature of which can only **be** guessed from the hints in the Colonial Records. On February 22, 1771, he was voted money by the Assembly to pay expenses in-

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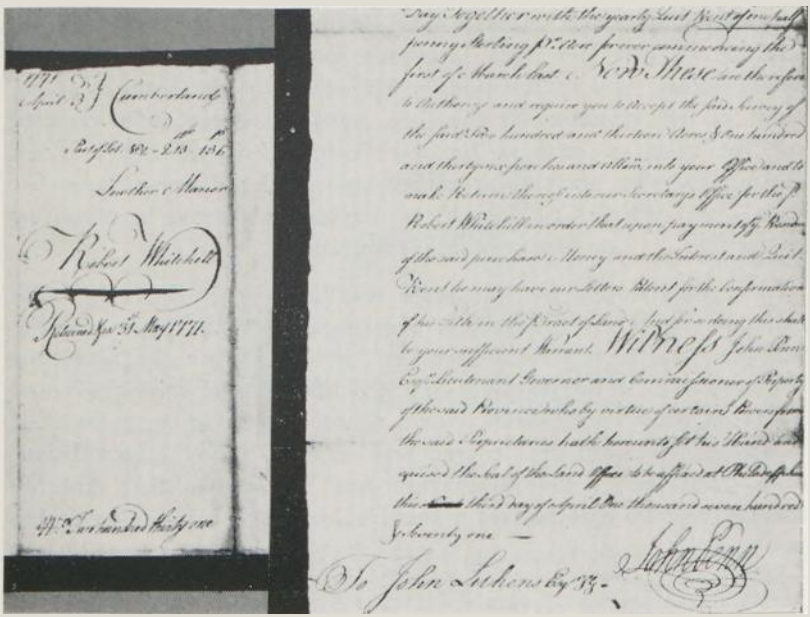
* To Alison can be traced origins of both the University of Pennsylvania and of the University of Delaware. Dickinson College obtained its second president from Alison.

**For 40 years deputy secretary of the Land Office. Crain developed his own peculiar filing system. Not until 1957 could his successors find the survey of Lowbher Manor—tucked into the file for his father-in-law. He served in the convention which wrote the Pennsylvania Constitution of 1838.

curred in "prosecuting the commissioners, assessors, clerks, and treasurer of the County . . . for misconduct in their respective offices." A way to spend the pay soon developed.

Land poor as always, the Proprietors were selling Lowther Manor farms. In order to win support for themselves in their contests with the Assembly, the Penn family gave first choice to certain influential people, particularly the members of the bar. In this way the County Judge, John Armstrong, as well as the Scot he lured to Carlisle to share his practice, James Wilson, received the valuable Lowther Manor plantations which fronted on the Susquehanna River and flanked the Great Road from Harris' Ferry to Carlisle.

Immediately behind Wilson's land were 213 acres and 136 perches surveyed for Whitehill by warrant from John Penn granted April 3, 1771. Within a month the Deputy Surveyor for Cumberland County, who was also Armstrong, executed the warrant and re-



This warrant of April 3, 1771 authorized the survey of 213 acres in Lowther Manor for Robert Whitehill. The file data to the left show that the surveyet returned it to the Land Office for the award of a patent on May 31, 1771. Terms provided the payment of "Quit Rent of one half penny Sterling pr. Acre for ever."

turned it to the Surveyor General, who issued from the Land Office a patent to the land. Perhaps Whitehill used the cash voted by the Assembly to pay the 150 pounds of "lawful money of Pennsylvania" which was recited as down payment in the patent toward the total cost. Perhaps the very decision to leave Lancaster County grew out of unpopularity which must have developed as a consequence of his work in prosecuting so distinguished a group of officials.

In assembling materials prior to 1845 for his History of Cumberland County, I. Daniel Rupp wrote Col. Crain, who at the time was living in Robert Whitehill's house. Rupp states that this structure was the first stone house built in the Manor.* This suggests that the 37-year-old Whitehill began life across Susquehanna on a more advanced economic scale than did his neighbors. Among the Scotch-Irish the usual pattern was hastily to erect a cabin of logs which would provide unadorned shelter while attention could be given to preparing the land for its first crop, usually corn.

Probably Whitehill spent a year sawing the thick wood beams, building the two feet thick limestone foundation and erecting the square home. The earliest positive knowledge of the house is an account of the 'seventies by the Rev. John Craighead, who recalled that the troop of soldiers he led "camped at the Hon. Robt. Whitehill's, who opened his cellar (where there was a large fire place), and where Col. Hendricks' daughters assisted in preparing the victuals ... provisions and apple brandy."

Solid and two-storied, the house was built in the lee of a slight rise near one of the two springs which appear in the Manor on the limestone side of the Great Road to Carlisle. Whitehill, according to the elder A. Boyd Hamilton, farmed his acres for forty-one years. Hamilton, who could have known Cumberland contemporaries of Whitehill, described the "county representative from Stoney Ridge" as "industrious, of fine proportion, and robust health." Another account suggests that he had a small voice which was not agreeable to the ear.

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Removing part uf the foundation in the 1940's a workman dug out of the wall a brownstone tombstone bearing the following words: "Sept. 11th 1787. Aged 25 years. 7 months." Part of the stone has been lost.

Certain assumptions might be made from the fact that he apparently retained his interest in land as a basis for earning a living. His acreage in Cumberland County was increased to 426 by 1790, by which time he purchased more land within the later borough limits of Camp Hill. Except for the 400 acres which he bought in 1793 in Northampton County, he bought land to farm it, not to speculate, as did so many of his contemporaries.

Unfortunately, about Whitehill personally only a few facts are known. At his death his goods were few. Mentioned in the will were two beds and bedsteads, bed "cloathes, my best set of drawers," and a library and desk left to James Whitehill. Of all his possessions only two can be identified as surviving his century. The home, drastically altered, stands at 1903 Market Street, Camp Hill. Until the nineteen 'thirties the desk, made in three sections and distinguishable by its pie crust decorations, was traceable via his grandson, Dr. Joseph Crain (1803-1876) and an antique dealer. Almost illegible is his horizontal tombstone in the graveyard of Silver Spring Church, of which he was named a trustee in 1796.

Sketch by Dorothy Kendall

**Robert Whitehill's house was the first stone structure in Lowther Manor. Twelve-pane, unshuttered windows had square sills and lintels. The hip roof led into a square top which may have boasted a miniature railing or other decorative device.**

## CHAPTER II -- The Rise of the Frontier

Fitting Robert Whitehill into the flow of Pennsylvania history requires a glance at events which preceded his emergence. After a dozen years of effort the frontier in 1756 finally persuaded the Assembly to vote funds for defense against the Indians, an issue before then ignored by the pacifist — and safe — Quakers. With this Assembly decision a new factor appeared, the frontier votes, and overt domination of the proceedings by the Friends ceased. In the period which followed a new alignment developed in which the frontier counties leagued themselves with the anti-Quaker elements in Philadelphia and thus with the Penn family in its disputes with the crown. Quakers, from whom the proprietary heirs had been by that time apostatized, became anti-proprietary.

This alliance helps explain what lurked behind the strong support for independence in Cumberland County. For the frontier, independence from eastern, Quaker, commercial, conservative domination was at least as important as independence from distant king and Commons.' So far as Cumberland County was concerned, the events of 1776 culminated its own thirty years war for more adequate representation in government. Before 1776 the three original counties, with about one-third of the population, mustered 26 votes in the Assembly while the eight inland counties cast only 10. In 1776, the eight counties, as will be seen below, got additional votes.

Sam Adams' fertile Yankee brain invented the instrument by which a county in Provincial Pennsylvania could cast off its political impotence. In 1774 Adams' system of Committees of Correspondence gained a chapter in Carlisle when a body of men met in the First Presbyterian Church. Independence from Philadelphia occured on July 12 of that year, predating independence from Britain by twenty-four months. After July 12, 1774, the old threat was meaningless — that the merchant princes in Philadelphia would settle their own particular disputes with the British government and scuttle a potential national independence that would separate their commercial enterprises from the protection of a powerful maritime

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Indeed, high regard for the latter might be assumed in Cumberland County, where the voters in 1757 selected a member of the House of Commons, who happened to be serving that year on military duty in Carlisle. Col. John Stanwix, as its representative to the Pennsylvania Assembly.

nation. After 1774 the quite different interests of the back counties had to be heeded. After 1774 every frontier farmer could be stirred toward rebellion without reference to the wishes of the townspeople on the Delaware or on the Letort.

In 1774, disagreement on the aims of American - British relations forced a change in the 20-year-old political alignment. Anti-proprietary adherents shifted either to Tory positions or into the right wing of the new Whig party, which itself soon fragmented into three factions. On the Whig right stood John Dickinson, Thomas Willing, and other men of conservative disposition, who were still rejecting American independence as late as 1776 after blood had flowed at Lexington, Bunker Hill, and Ticonderoga.

In the center of the Whig forces loomed the bulk of Pennsylvania's talent, the luminaries whose brilliance obscured Whitehill. Here maneuvered James Wilson, Dr. Benjamin Rush, Robert Morris, and other famed "Founding Fathers."

To the left boiled what have been labeled since the 1930's the Radical Whigs, or "Radicals," whose leader, George Bryan, thought of himself as identified "with the people, as opposed to the well-born." Leagued with this Philadelphia clique was a rural faction to which the term "radical" cannot appropriately be affixed. A temptation arises, in fact, to compare this alliance with the collaboration which developed between the rural, non-Radical South and the metropolitan city machines during the era of the second Roosevelt. Noting that the rural Scotch-Irish opposed emancipation of Negro slaves, the parallel becomes even more striking. Therefore, to avoid the inappropriate "Radical" label, the party of the slave-owning Robert Whitehill, in both its rural and urban manifestations, will be termed after mid-1776 "Constitutionalist" in the pages below, the name by which they identified themselves and a title descriptive of their fond attachment to the Pennsylvania Constitution which they fathered in 1776.

On May 1, 1776, Robert Whitehill won his first election. In that month he became one of 13 persons elected to fill the new Assembly seats which had been created at the insistence of the Whigs, who demanded an increased representation for the frontier region.

When the newly-enlarged Assembly convened in the third week of May, 1776, the conservative group still exercised a slight majority. As a result, a vote carried which denied authority to Pennsylvania's Continental Congressmen to seek independence from Great Britain.

Interpreting Concord Bridge as a call for action more drastic than mere renewed pleas to Parliament, Whitehill's new city allies moved quickly toward a solution of their own. The rural group did not demur, for the adverse vote in the Assembly meant defeat for its own particular aims. That Whitehill moved early under the influence of these city radicals is evident from the fact that George Bryan received a letter from Whitehill in the month of June. In this Whitehill confided that there is "a growing enmity against James Wilson as if he were identified with the Assembly members who were wholly against separation, which is not the case." That he moved wholeheartedly under Radical influence can be assumed from a later remark from Bryan's politically-wise son that another man "is as staunch as Whitehill."

At this frustrating juncture John Adams contributed to events in Pennsylvania. Sensing the deadlock and anxious for Middle Colony support for independence, Adams pushed a bill through Congress calling on the colonies to form new governments "where no government sufficient to the exigencies of their affairs has been established .. ."

The other Adams' Committees of Correspondence be'came the device to execute the plan. Key Philadelphians organized a conference of Committees, which on June 18 from Carpenters Hall issued a call for a constitutional convention to meet July 18. This extralegal conference decreed that the delegates should be chosen at a special election to be held July 8. To ensure the election of independence-minded delegates the conference spelled out new voting qualifications excluding persons who would not disavow allegiance to Great Britain, but including all militiamen who had ever paid taxes. These provisions automatically disenfranchised much of that part of the population which was still loyally supporting legal negotiations and gave the vote to many persons who had heretofore never qualified because of inability to meet property tests.

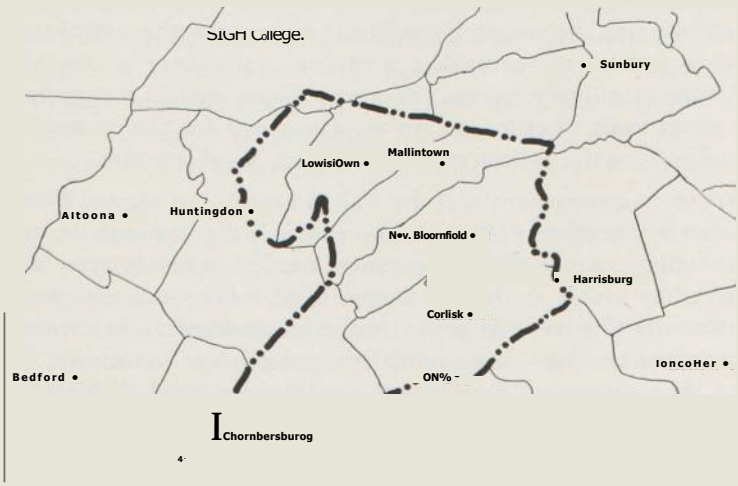
At the election only 13,000 persons, of about 275,000 living in the State, voted. Of these, the left wing Whigs found support from a mere 6,800, according to one estimate, but enough to carry all votes in the convention.

On July 6 between 2 and 6 P.M. persons in Cumberland County went to three polling places. Those persons living in Allen, Middleton, Pennsboro, Newton, and Hopewell Townships voted in Car-

lisle, while others cast ballots at either Chambersburg or "Robert Campbell's" in Hamilton Township.

When the Judges of Election — Robert Miller, Benjamin Blyth, and James Gregory — counted the votes, they found Robert Whitehill, among others, elected. Thus did the delegate find himself in the awkward position of serving both the Assembly and the Convention formed to bypass it. That his sympathy lay with the Convention can be demonstrated by his actions in the Assembly. When that body, before its adjournment June 14, finally sensed the demand for change, it, too, attempted to call a convention. Whitehill and his friends prevented this contingency by absenting themselves and deliberately- preventing a quorum which could have made possible a call for a legal convention representing a drastically different kind of opinion.

When the convention delegates gathered to begin their business that July of 1776, they found control lodged in what J. Paul Selsam in his dissertation terms a group of "left wing extremists [who] stood for vigorous action . . . insisted that the [old] government be overthrown. This was the party of democracy . . . frontier chieftains such as Robert Whitehill . . . became prominent in the man-



**Getty,hurgot**

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**Assemblyman Robert Whitehill represented the area within the heavy lines above. Modern place names are added to identify the extent of the district which in 1776 was Cumberland County. A decade earlier the County extended as far as the present Ohio border.**

agement." Whitehill, incidentally, arrived on July 17, two days late.

All of the men at the convention were not left wing persons. Of the minority, Charles H. Lincoln had this to say: "Their failure to make a stand for popular liberty at home had undermined their influence in the opening days of the struggles, and their refusal to accept the inevitable in 1776 assured the control of the state to the advocates of unrestricted democracy."

"Unrestricted democracy" aptly describes the document that appeared. Bearing the strong imprint of its authors' fears, the Constitution continued the peculiar unicameral legislature to which Pennsylvania had been accustomed since 1701, an all-powerful body not unlike the House of Commons. The executive branch, a weak and powerless Council consisting of one person from each county and the City of Philadelphia, could neither legislate nor veto nor even administer effectively. Councillors were ineligible for re-election "in order to prevent aristocracy." In place of a governor was a President whose powers and duties differed from those of the other Councillors only in that he presided.

Council itself was chosen by the people at the general elections, its members serving for three years. The president was chosen by the Assembly.

According to the majority's political philosophy the judiciary was merely a part of the executive, a pattern reminiscent of the system of American military justice. Supreme Court justices were allowed only seven years in office, a limitation imposed for the avowed purpose of keeping the judiciary amenable to electoral pressure.

Unique in government was the fourth branch, an elected Council of Censors, an echo of ancient Rome which met septenially to decide whether or not the Constitution needed amendments. Since changes required a two thirds majority, and since the vote was by counties, the Constitution was safe from amendment. In control of the government, the Constitutionalists created new counties in areas where their supporters proliferated and thus renewed their strength against changes.

Contributing to the convention and its product were a number of persons not all of whom were necessarily delegates. If the stature of Whitehill can be evaluated in terms of the three colleagues with whom he was appointed on July 24, then Whitehill, indeed, was held in highest esteem. Timothy Matlack, David Rittenhouse, Col.

Galbraith, and Whitehill were a group of appointees added to the Convention's crucial Committee on the Frame of Government.

Not determinable is the exact contribution of any particular person. Thayer says that James Cannon, the mathematics professor at the College of Philadelphia, was the "chief architect" of the Constitution. Konkle in his biography of Bryan uses almost the same words to describe Bryan's role "although this is not easily apparent because he did it by personal channels not publicly recorded." Sam Adams by contemporaries was thought enough involved for hints to have generated that he should be assassinated.

After deliberating into September the Convention, without reference to the electorate, decreed the Constitution in effect but remained in Philadelphia to conduct some other items of business. The reaction ranged from acquiescence to apoplexy. Whitehill's old teacher, who was given to entertaining politicians in his Philadelphia home, called the Constitutionalists "honest, well-meaning country men hardly equal to the task before them." Dr. Rush wrote: "the government of Turkey is not more to be dreaded than the Government of Pennsylvania." Carlisle's John Montgomery spoke of the Constitutionalists as "offscouring and filth of the earth."

James Wilson tried to organize an opposition meeting in Carlisle on October 6 but failed to stir widespread sympathy. According to the historian Ferguson, the frontier people "followed the vigorous leadership of George Bryan and Robert Whitehill in opposition to the aristocratic group under James Wilson and Robert Morris." The democratic government forged by the Constitutionalists suited well the tastes of the rural people, particularly those in Cumberland County.

Before adjourning the convention assumed certain additional powers of government, but, unlike similar groups in some other states, did not simply resolve itself into a legislative body. Among the items of extra-constitutional work that it did was the enactment of the "test oaths" as qualifications for voters. These made a pledge to defend the unchangeable constitution a prerequisite to voting. Taking such an oath trapped an opponent to submit, not taking it hedged him equally well.

Five days before the Convention went home the Assembly quietly died, apparently without hearing a report from a committee to which Whitehill had been appointed on May 27 — "to inquire into the conduct of the Committee of Safety."

## CHAP TER III -- Republican Resurgence

Between the September 28 adjournment and the November 5 election Constitutionalists and Republicans both sought support. John Harris, the Paxton Ferryman, joined the anti-constitutional forces arguing on two points that might be typical of the opposition. No supporter of his brother-in-law's party, Harris urged: **(1)** that the convention was not truly representative because its delegates were elected while the militia were away on military duty and because a majority of the townships were not represented in the Convention; (2) that nobody had a right to alter the government unless delegated by the people. Plainly mere arguments of frustration rather than disagreements as to philosophy of government, Harris' reasons lend credence to the opinion that the Republicans took issue principally because they had been swept from positions of leadership which they relished and from the perquisites of office to which they had grown accustomed.

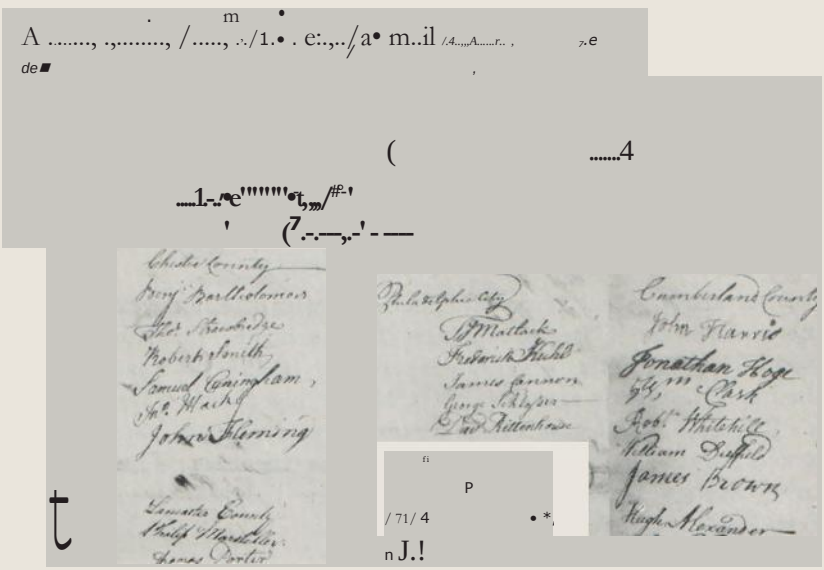
**In** Cumberland County the politically astute sensed the outcome of the election. Writing on November **4** Republican George Stevenson, of Carlisle, said: "Tomorrow comes our election. **I** think **I** can give you a list of Cumberland County's representatives, viz: Council Member — Jonathan Hoge; Assemblymen — Robert Whitehill, James McClean, William Clark, Jamey Brown, William Duffield, and Hugh Alexander. At least that is the ticket settled by the Stoney Ridge Convention. A few days will show you if **I** am right. **I think** the town of Carlisle will furnish near 20 votes, and I believe no more, for Andrew McKee, who will swallow the [test] oath, if there were as many fish hooks in it as there are letters, is appointed Inspector. Therefore a non juror can't get a vote. **I** think the design of the members of the late Convention when they enjoined that oath was to secure to themselves seats in the next Assembly. My reason is this — such only as appear and take the oath are entitled to vote."

This third election of 1776 found militia conspicuously patrolling the streets to intimidate any stray anti-constitutionalist who might attempt to vote without taking the oath mentioned by ironmaster Stevenson. Robert Whitehill under these conditions won an Assembly seat by polling **447** votes at this "khaki election."

**When** all 2,500 ballots were counted in the State, the Constitutionalists had won a working majority in the new Assembly, **but**

their victory wrecked the State. Both types of independence brought difficulty. That from Great Britain brought Gen. Howe to Philadelphia; that from Republican control resulted in untrained administrators and unworkable governmental organization. To compound the trouble/ disgruntled Republicans boycotted both Assembly and Council preventing quorums in the latter until March, 1777. It would 'appear that Whitehill, in hopes that business might begin, remained in Philadelphia, for druggist Christopher Marshall in his diary told of seeing "Whitehill, J. Dickinson, and Gen. Mifflin at the State House" on December 2.

After Howe occupied the capital, Congress and Assembly found various resting places. .The first was Lancaster to which they fled in September, 1777. Here Assembly granted Council emergency powers and retitled the enlarged body a Council of Safety. Whitehill and eight other Assemblymen were added to it to enable it better to function. Between the hasty adjournment of Assembly and December 6 this strange executive body groped with administration-




Courtesy Penna. Historical 8, Museum Commission

Convention delegates signed by counties the Pennsylvania Constitution of 1776. Delegate "Robt. Whitehill" is the fourth of eight names under the Cumberland County heading.

confiscating Tory property, attempting to regulate prices, running a war.

During these dark months another election occurred, Whitehill polling 407 votes and beginning his second year in an Assembly of which it was said "Robert Whitehill, James McLene, and John Maynard were the only luminaries among the satellites." The first two, both Cumberland County men, became a committee which went to Yorktown to present a grievance to Congress concerning the overly-eager impressment of supplies for the army. Congress was sufficiently persuaded by their eloquence to dispatch a resolution of explanation and to dismiss three offenders.

Weak executive, price inflation, general inexperience and British occupation of the capital of Pennsylvania combined to render quite ineffective the State government. Tax collectors ceased functioning. In Carlisle Ephraim Blaine refused the job as militia lieutenant and prothonotary Agnew, on the advice of Republican John Montgomery, refused to turn his papers over to his successor, John Creigh. Only one attorney would do business in the County, and the courts simply ceased to function at all until April, 1777. That three members of the bar—Ross, Smith, and Wilson—were away serving as Congressmen and as Signers of the Declaration of Independence—contributed to the cessation of activity, of course.

Illustrative of the almost unanimous support of the Constitution in Cumberland County was the situation in Carlisle. Only 20 votes were cast for Whitehill's Republican opponent. The mere hint that another candidate, John Harris,* had joined with anti-constitutionalists caused him to lose his bid for re-election.

After about a year of actual experience with the new government the antagonism of the Republicans did not abate. Dr. Rush wrote in 1777: "If it (the government) should finally be established I shall bear testimony against it. Gen. Mifflin has declared war against it. Whitehill, the leader of the House, moved to have Mifflin committed for speaking disrespectfully of their dignities. The general curses the government and says it is in the hands of rascals. Col. Reed hates it."

* This Harris lived in the Mifflintown area and is often confused with Whitehill's brother-in-law, who is called "Harris the Ferryman" in this paper.

Even more vitriolic was one David Varnum, who declared that he had "lief be under a tyrannical King as under a tyrannical Commonwealth, especially if the d—d Presbyterians have control of it."

After a year's absence from office Whitehill returned to succeed in 1779 Jonathan Hoge as Cumberland's representative on the Supreme Executive Council. By this time a supporter of the Constitution and a strong personality, Joseph Reed, as President tried to make the body more as if it were Supreme and an Executive. Whitehill supported the president as well as William Moore, vice president, who moved into Reed's post when the relentless rotation system rolled the latter off Council. During these Council years Whitehill seems to have remained in the background. In his public life Whitehill emerged powerfully when in the minority and on the attack but sank into silence when his group was in a majority. As an "out" Whitehill blazed, as an "in" he smoldered.

## CHAPTER IV Republican Resurgence

While Whitehill sat on Council the national independence was won, the political independence of his rural constituency confirmed. A third kind of independence, the freedom of the individual man, stood far from secure in the seventeen 'eighties. Robert Whitehill earned that fame which he enjoys as a result of his battle for this third freedom.

In 1783 and the three years which followed he returned to his Assembly seat to begin the fight. An opening round occured in March of 1785 when Whitehill and John Smilie submitted to the Assembly petitions protesting a plan to recharter the war-born Bank of North America, an institution founded in Philadelphia under formal authorization of both state and confederational governments. The bank, in turn, had developed as a result of fiscal bungling on the part of the administratively inept Constitutionalists and of the dedicated partisanship of the Republicans. For the former, banks were blatant symbols of power dangerous because insulated from popular control. On the other hand Republicans, whose great men controlled the bank and collected its annual 14.5 per cent dividend, pictured the institution as a stabilizing force, a buttress of sound credit, and a *sine qua* non for the honoring of Congressional requisitions on Pennsylvania. Neither opinion reflected the full picture. Whitehill, in fact, was never able to achieve anything better than *a* fuzzy focus when the city on the Delaware was in his lens. In the words of the historian Tolles: "Whitehill was inveterately suspicious of all things Philadelphian."

Early in 1785 the Assembly authorized a committee "to inquire whether the Bank was compatible with the public safety and that equality which ought ever to prevail between individuals in a republic."

Apparently the investigating committee never actually inspected the premises of the banking institution before making its recommendation. In the debate which followed the failure became a subject for criticism. In defense Whitehill had prepared himself well in the upstairs of his boarding house on Fourth Street. "Would the president and directors have told us of the partiality and favoritism they might have been guilty of?"

"It ignores the salutory principle of rotation of office," he ob-

served correctly but irrelevantly. "This enormous engine of power will dictate to the Legislature what laws to pass and forbear," he predicted. Finally, he foresaw the reduction of Pennsylvania to a tyranny from abroad (because the Bank operations drove specie away and made foreigners the creditors) and dependence upon a European power.

So heated did he become that Robert Morris remarked: "Even were an angel from Heaven sent with Proper arguments to convince him of his error, it would make no alteration with him." Unwilling to ignore the words of the great financier, Whitehill replied: "If an angel spoke as he has done, I should regard him as a fallen angel."

In the Assembly Whitehill forced a paragraph-by-paragraph vote on the bill to renew the charter, a tactic which drew expressions of disappointment in Whitehill from Tom Paine. Each paragraph and each change proposed by Whitehill was defeated. Rechartering of the Bank was Whitehill's first major defeat and his first major battle for independence of the individual.

A minor defeat followed when the legislators failed to support a Whitehill proposal to fine anybody attempting to open a theater. Theaters permitted, the Assembly then inconsistently ordered a 200 pound fine levied on anyone convicted of staging a play. Passed with Constitutionalist support, this Puritanical measure might be cited as an additional reason for the inappropriateness of the "Radical" label for Whitehill as well as something of a blow at the reputation here developed for him as a partisan for freedom of the individual.

In one other matter did Whitehill make a mark on the record of the Assembly session of 1785. Teamed with William Findley, he drafted an answer to Congressmen James Monroe and Rufus King, who had been appointed by the national body to dissuade the Pennsylvania Assembly from paying to Pennsylvanians directly the interest due on money which they had loaned to the national government. Pennsylvania's Constitutionalist money managers earlier had decided to credit such payments toward the state's annual payments for the support of the United States.

The year 1786 brought continued decline in the strength of the Constitutionalist party, although Whitehill, as always, won his Assembly seat. While he sat for his fourth and last term he must have sensed the implication of the deliberations going on behind the


Harriss
Strode
Robinsons
Tyrone Valley
Limestone
Sharmans
Kennedys
Woods
CARLISLE
Hunters
Shortiss
Fishing
Whitehills
Chambers
Elders
Simpsons
Likens Valley
Wikmisky
Falls
Armstrongs Creek
Reeds
Stony
Bells
Walkers
Pastang
Pennbucks
York
Smiths
Wolfs
Simons
Gap
Kerrbees

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This map of 1792 spans the territory beyond Philadelphia where Whitehill spent his life. Note the named homes of famous persons in the area - "Whitehills," "Harris's," "Elder's," "Simpson's," et al. Pequea


Surf


Town
Anderson
Trois F
Burkholder
Broque
Reed's


Alsace
READING

Creek, draining Lancaster County into the Susquehanna, was the site of the settlement where Whitehill spent his first 37 years.


Harrisa
Strega


Pinegrove


Pine
Mi


Springs


Followfie
W.Follow field
W.
Marlboro

This map of 1792 spans the territory beyond Philadelphia where Whitehill spent his life. Note the named homes of famous persons in the area — "Whitehills," "Harris's," "Elder's," "Simpson's," et al. Pequea

Creek, draining Lancaster County into the Susquehanna, was the site of the settlement where Whitehill spent his first 37 years.

closed doors in another section of the State House. There, during the four months after May 25, 1787, sat fifty-five men from a dozen states "amending" the Articles of Confederation. Whitehill had earlier declined appointment to the Federal Convention, several reasons lying behind the refusal. For one, his wife had just been buried in the cemetery of Silver Spring Church, and the press of summer work on the Lowther Manor farm might have therefore been greater than normal. That the delegates received no pay might well have been one reason. Whitehill, never wealthy, accepted 208 pounds, three shillings, four pence in 1776 and 1777 for pay and mileage in connection with his Assembly seat, for example.* Chief, however, among the reasons for refusal might have been that his vote would have been nullified anyway in the Pennsylvania delegation where all the other members were among his political opponents.

Robert Whitehill did serve on the committee appointed December 30, 1786, which authorized the delegation to speak for Pennsylvania. It is to be expected that he would have rebelled in '86 had he known that the voice he helped authorize would be exclusively eastern and Republican.

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* A 1779 law fixed Executive Councillor pay at three pounds per day. The 1778 Assemblymen were allowed two pounds and five shillings in daily pay and one shilling and five pence per mile travel pay.

## CHAPTER V -- Preliminary Skirmishes

When the Federal Convention adjourned in September, 1787, it "leaked" a copy of its work to the Pennsylvania Assembly, a move which enabled the men in that body to examine the contents and plan strategy. Whitehill's party, studying the document at the home of Judge Bryan, found everywhere provisions antithetical to the concept of government embodied in their own State Constitution of 1776. Indeed, the document appeared a direct outgrowth and reaction to Pennsylvania's democracy. That this was the case seems more than likely when a check of the list of "Founding Fathers" shows many veterans of the old Congress which not many years before had been attacked by the Philadelphia mob. Important, too, may have been the fact that one of the two principal authors, James Wilson, had undergone an armed assault on his own Philadelphia lodging from which he had escaped personal harm only because an alert President of Pennsylvania with pistol in hand had ridden at the head of a mounted troop to disperse beseigers.

Aware that the Pennsylvania Assembly planned to adjourn September 28, Congress in New York took special care to submit the Constitution promptly. Soon after a dispatch rider dashed into Philadelphia with the Constitution Republican George Clymer rose in the Assembly to call for a ratification convention.

At strategy sessions the decision had been for Robert Whitehill to lead the Assembly floor fight, a battle in which the initial tactic was to be delay. Whitehill's group needed time to organize the country districts in such a way that they could elect anti-constitutional delegates to the convention. Getting the floor, Whitehill cried: "No. The House, Sir, ought to have time to consider on this subject before they determine. I move to postpone the consideration until we meet again, and that it may be this afternoon."

Finding only Republican obduracy, Whitehill in the best tradition of the States-rights filibuster offered procedural arguments: await a more official presentation from Congress, and refuse to accept the proposal lest Pennsylvania violate the Articles of Confederation (which forbade States entering into pacts without the consent of Congress.)

When the lunch hour arrived, the Assembly recessed. Whitehill

and his affiliates simply failed to return to the State House. The Republicans, finding a quorum impossible, dispatched employees to investigate. When one of them, the Sergeant-at-arms, returned he was interviewed by Gen. Thomas Mifflin, the Speaker, to the following effect:

"Speaker. Well, sergeant, have you seen the absent members?

Sergeant-at-arms. Yes, sir, I saw Robert Whitehill and others. Mr. Speaker. What did you say to them?

Sergeant. I told the gentlemen that the Speaker and the House had sent for them, and says they 'There is no House.'

Mr. Speaker. Did you let them know they were desired to attend?

Sergeant. Yes, Sir, but they told me they could not attend this afternoon for they have not made up their minds yet.

Mr. Speaker. Who told you this?

Sergeant. Mr. Whitehill told me first. Mr. Clark said they must go electioneering now."

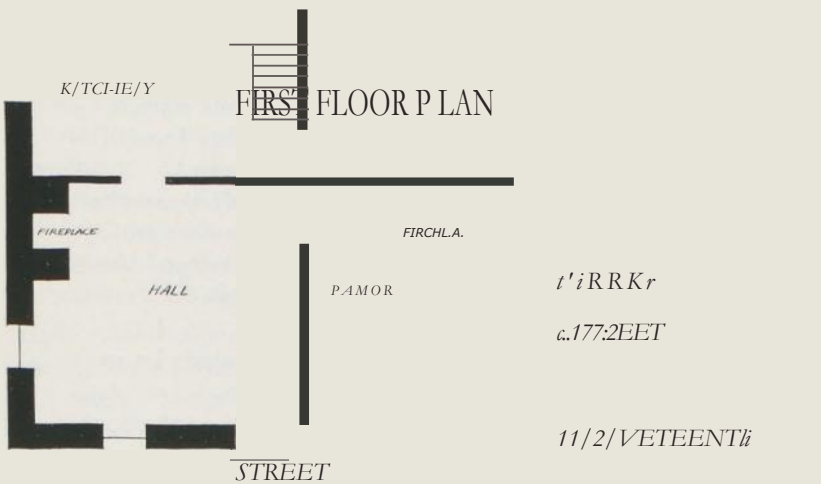
In addition, the clerk had a report: "I went to Mr. Whitehill's lodging and saw a woman that I supposed to be the maid of the house. She informed me that Mr. Whitehill was upstairs. She went up and stayed some time. When she returned she told me he was not at home."

A little later in the day the Philadelphia mob broke the deadlock. It bodily dragged two of the boycotters from their lodgings to the Assembly session, where their very reluctant presence made a quorum possible. Before the two Assembly-prisoners could escape, the Republicans called a convention with delegates to be chosen at a special election the first Tuesday in November, 1787. Final adjournment followed quickly, but not before one of the prisoners entered a plea that the convention meet in Carlisle, a town with a mob that might see its duty differently.

## CHAPTER VI -- Battle Joined

In writing the life of Albert Gallatin, who learned some of the techniques of politics from Whitehill, Henry Adams observed "The Federal Constitution found no admirers among the agricultural population, where the necessity of police and authority was little felt (and) a strong government was an object of terror."

Whitehill and his brethren spent the weeks following September 28, 1787, stirring up those feelings of terror which Adams described. Other States steamed with similar anti-constitutional fervor—Patrick Henry, the New York Congressmen, James Monroe, and Thomas Jefferson all opposing the Constitution as written, their principal basis of disagreement being the omission of provisions guaranteeing freedom of the individual. Apparently the opponents linked a chain of correspondence over which traveled the contents of speeches, tracts, and polemics. This revived system of correspondence united




Floor Plan by Merle T. Westlake, R. A.

Indications are that in 1772 the Whitehill house was built to face east on present 19th Street, Camp I-1111. Careful measurements made of the four levels of the present building show this likelihood. Upstairs were four bedrooms. The attic had whitewashed rafters and no floor. The cellar boasted at least one fireplace.

in an effort to, prevent ratification with the additional aim that, if the first effort failed, amendments might be secured.

Affixing party labels at this period causes a confusion. In this discussion the proponents of the Federal Constitution will be called Federalists, a camp into which marched virtually all of those persons who from 1776 until 1787 in Pennsylvania have here been called Republicans. On the other hand, the persons opposed to the Federal Constitution are here termed Anti-Federalists, a group which consisted essentially of the persons who had until 1787 been dubbed "Constitutionalists" in recognition of their fondness for the the Pennsylvania State Constitution of 1776. Whitehill thus became an Anti-Federalist.

Whitehill's role in the fight against ratification received contemporary press recognition. In the unrestrained manner of the day appeared a poem in the October 5 edition of the "Independent 'Gazetteer":

"Duetto. Sung by W _____ h _____ 1 and F _____ dl _____ Y: accompanied by G _____ _____ n, with violincello.

Though rascals and rogues
they may call
Yet now we may laugh at
them all;
`Twas well we escaped
with whole bones
For we merited horsewhips
and stones.

2

In troth we have cut no
great dash
Run away and not compass
the cash;
I'm sure 'twas a
damnable shame,
But on fear we may lay
all the blame.

3

They rrisAy call us the
glorious sixteen
Such glory I wish I'd
not seen;
For of all rogues the
greatest we are
That ever smelt feathers
and tar.

4

Then quietly let us
jog on,
Drink in comfort our
whiskey grog strong,
Rejoice that we escaped
without evil,
And go as we ought
to the devil.

Robert Whitehill won a seat in the special November election, but among the 60 delegates who assembled November 21 there were

only 22 others who were opposed to the proposed Constitution. These men ceded leadership to Whitehill, Smilie, and Findley. A student of the convention assessed this trio as "democratic, modest landowners, representative of a debtor class who objected to taxation. They championed local democracy as opposed to a federal republic . . . perhaps [feeling a] change in government might deprive them of leadership."

Refreshingly, on the first item of business all agreed. Upon Whitehill's motion they recessed at 10 A.M. to attend the Commencement exercises of the University of Pennsylvania. When they returned, Anthony Wayne moved that a committee be appointed to report the rules and regulations for conducting the business of the Convention. This was seconded by Robert Whitehill, who was then named to the committee together with Wayne, Wilson, Dr. Rush, and Gray. After the committee report was returned, White-hill on November 26 moved that the document be studied by the convention sitting as a committee of the whole. This tactic, designed to delay adoption while opposition petitions could be circulated on the far-spread frontier, failed by the same division which marked every important vote during the three weeks of the convention.

Only one of the men present had sat in the Federal drafting Convention, James Wilson, of Caledonia and Carlisle, who, as one of the two principal authors of the Constitution, was peculiarly capable of defending it. At the Pennsylvania Ratification Convention Wilson took command of the majority forces early in the session. His principal opponent was Robert Whitehill, the one man whose remarks were quoted in Wilson's own speeches and thus occasionally crept into Secretary Thomas Lloyd's Federally-oriented minutes.

Early in the convention Whitehill began to goad Wilson. He sarcastically hoped that Wilson, "with his superior talents and information," might "cast a ray of wisdom to illuminate the darkness of our doubts and guide us in the pursuit of these abilities which have been eminently distinguished in the abstruse disquisitions of law, that they should fail in the insidious task of supporting, on popular principles, a government which originates in mystery and must terminate in despotism."

It may have been the foregoing harangue which led one commentator to accuse Whitehill of dreary speeches. His attack on the secret nature of the "dark enclave," as the Radicals described the

Federal Convention, and on the aloofness of James Wilson had no more effect than the substantive arguments which Whitehill later offered.

He questioned the authority of the Federal Convention: "Instead of transacting the business which was assigned them, they have produced a work of supererogation after a mysterious labor of three months." On another tack he urged, "the people ought to be informed and ought to know in the clearest manner what is the nature and tendency of the government with which we have bound them. Public favor is of a transient and perishable nature."

In the first two weeks of December, 1787, Robert Whitehill demonstrated what must have become his personal political philosophy:

"It is the nature of power to seek its own augmentation, and thus the loss of liberty is the necessary consequence of a loose or extravagant delegation of authority. National freedom has been and will be the sacrifice of ambition and power, and it is our duty to employ the present opportunity in stipulating such restrictions as are best calculated to protect us from oppression and slavery. Therefore, if other countries cannot provide an example, let us proceed upon our own principles and with the great end of government in view, the happiness of the people, it will be strange if we err.

"Government is in its infancy. We ought not to submit to the shackles of foreign schools and opinions. In entering into the social compact, men ought not to leave their rulers at large, but erect a permanent landmark by which they may learn the extent of their authority, and the people be able to discover the first encroachment on their liberties.

" 'We the people of the United States' shows the old destroyed, incontrovertibly designed to abolish the independence and sovereignty of the states individually, an event which cannot be the wish of any good citizen."

Pointing to the provision that nine states could bring the Constitution into being, he inquired what then would be the status of the other four. He asked rhetorically if those outside would be forced in, a preview of the issue which faced the nation sixty years later. He inquired whether the four abstaining states could not justifiably demand that the nine live up to the Articles of Confederation. Finally he pointed to what he called an inconsistency: the Convention had been called by the States but issued its report "under the arbitrary assumption of another", viz: "We, the People."

Looking at the document in detail, he saw many difficulties and dangers. He warned that the provision giving Congress the right to secure to authors the rights to their own writings could be twisted into authority to license the press and thus suppress it.

The clause, granting Congress authority to make all laws necessary to effectuate the others worried Whitehill, who feared also that the taxing power "can be carried to an inconceivable excess swallowing up every object of taxation, plundering states of the means to support their governments." This is a cry not unknown in the day after Whitehill.

He predicted that the Federal government would "absorb every subordinate jurisdiction, slowly but surely destroying the power and sovereignty of the states, sweeping away with them the civil liberties of the people." He held that the Confederation government would suffice for a time and that it "is unfair to say that the government is powerless to command."

Not all of Whitehill's oratory was confined to flailing the Federalists, their methods, and their Constitution. As the debate drew toward an end, Whitehill became positive in approach, moving the adoption of 15 amendments which will ring familiar to students of

Courtesy Charles L. Myers

In 1878 with the purchase of the Whitehill home by the Hyde family a frame wing was added to the east (left) and the Whitehill home reoriented so that it faced north on the Great Road rather than east. "Squire" Hyde built the barn in the rear which burned in 1931. Doors, stairs, halls, and windows were relocated.

that Bill of Rights which was eventually added to the Constitution.

1. Rights of conscience shall be held inviolable, and the United States shall not infringe upon the states' preservation of liberty in religious matters;

2. Trial by jury shall remain as heretofore in certain Federal courts;

3. A man shall have the right in criminal and capital prosecutions to demand the cause and nature of his accusation, to be heard, to be confronted with his accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury from his vicinage which decides by unanimous consent; the accused shall not be made to give evidence against himself, and he shall not be deprived of liberty except by the law of the land or a judgment of his peers;

4. Excessive bail shall not be allowed nor any excessive fines nor cruel nor unusual punishment be inflicted;

5. Search warrants not particularly described are grievous and shall not be granted;

6. The right to freedom of speech, of writing, and of publishing their sentiments shall not be restrained;

7. The people shall have the right to bear arms, although standing armies ought not to be kept up, and the military should be kept under strict subordination to the civil power,

8. People shall have the right to fowl, hunt, and fish;

9. States can levy taxes, and Congress cannot except to levy imposts and duties on exports and imports;

10. States shall regulate the elections of Senators and Representatives, and the annual elections shall be held without any Federal control;

11. States shall control the militia; the United States shall have no authority to march it out of its home states for longer than two months without the consent of the state;

12. A separate branch shall be created, the Constitutional Council, which shall advise the President;

13. No treaties contrary to the existing laws of the United States shall be valid until such laws are repealed, and no treaties shall be valid which are contradictory to the United States Constitution;

14. The jurisdiction of the Federal courts shall be limited, and the United States shall be forbidden to alter laws relating to de-

scents and wills, title to land and goods, or the regulation of contracts in the individual states;

15. The sovereignty, freedom, and independence of the several states shall be retained.

The list of proposals epitomized the fears of the frontier. White-hill told the convention: "A bill of rights might be a dangerous instrument, but to the views and objects of the aspiring ruler and not to the liberties of the citizen. Grant but this explicit_ criterion and our governors will not venture to encroach; refuse it and the people cannot venture to complain."

From James Wilson came a reply that must have quieted no fears. The best answer the learned man could muster was that Robert Whitehill's categorized list was superfluous, that civil rights would continue to exist inferentially as an echo in America of ancient Magna Carta. Wilson, of course, resisted amendments before ratification in order to avoid the hopeless situation which would have prevailed if all 13 states had adopted differing versions of the Constitution.

Unsatisfied with so vague a guarantee as the five-centuries-old Great Charter, Whitehill warned: "The country beginning in tyranny must end in despotism. I anticipate the annihilation of state governments and destruction of the civil liberties of America. We

Sketch by Dorothy Kendall

Six miles from Whitehill's home stands Silver Spring Church. Erected in 1783, the structure replaces a wooden church. Adjoining the stone church is a graveyard where Robert Whitehill is buried.

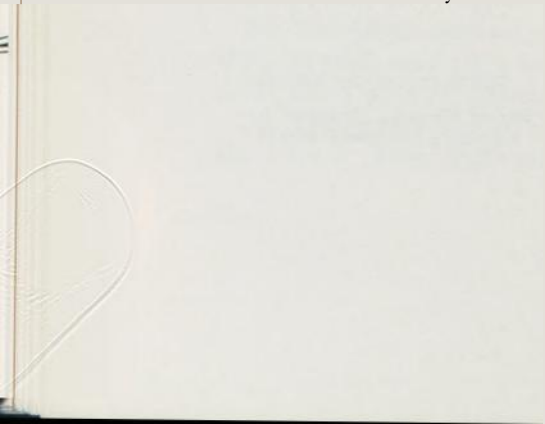
rob the people of their liberties when we establish a power whose usurpation they would not be able to counteract or restrict."

The Federalists voted down the amendments and directed that they not even be entered upon Lloyd's Convention minutes. As for those minutes, aware of their potential propaganda value, Whitehill urged that the delegates be permitted to enter into the record their reasons for their votes, saying: "It will be barren document otherwise. The public has a right to know the principles upon which the delegates proceed. It is the just right of every man who is bound by his vote to be permitted to explain it." This contention, too, was rejected by the Federalist majority.

Attacks both in broadside and in detail followed. Whitehill expressed dislike for the concept of a Vice President presiding over the Senate on the theory that he would cast a vote, and on that vote might depend his salary. He thought improper the power of Congress to pick the time of choosing electors. He damned the Senate as too aristocratic, the Supreme Court as too powerful, the whole government as too great a rein on individuals and too little a confederation of states. The President, in his opinion, was far too powerful an executive.

To show that he spoke with the approval of his constituents he presented a petition bearing the names of 750 Cumberland County people who urged the rejection of the Constitution. In passing he could not refrain from a remark directed at Dr. Rush to the effect that he regretted that physician's ascription to the Almighty of so imperfect an instrument as the Constitution.

While debate continued — and Whitehill's group was accused of having cost the State 1,000 pounds of expense in discussing the words "annihilation" and "consolidation" alone — the news arrived that Delaware had become on December 8 the first state to ratify. One week later Pennsylvania became the second. The final roll call showed forty-six "aye's" and twenty-three "nay's," including all of the representatives from Cumberland County. The date of the defeat, incidentally, is commemorated as Bill of Rights Day and thus is actually a date of victory for Robert Whitehill.



## CHAPTER VII -- Post-Battle Turbulence

Defeat did not end the debate. Three days after adjournment of the Convention the "Packet" printed a minority address signed by Whitehill and seventeen of the other twenty-three dissenters. In this dissertation, which is attributed by one author to Richard Henry Lee, of Virginia, the Anti-Federalists managed to reveal new reasons for their opposition. Among the new arguments was the contention that the ratification vote was invalid because the Convention was not truly representative of the population, a telling criticism but hardly a novel one in eighteenth century Pennsylvania.

A newspaper war developed among the eleven publications in the State. Federalists threatened to cancel subscriptions if opposition arguments were printed and even bribed postboys not to deliver Anti-Federalist newspapers brought in from other states. In this situation the readers in cities were soon found to be eight to one in favor of the new Constitution.

Examples of the carping in the four Philadelphia newspapers with Federalist leanings included pieces which struck directly at White-hill. Illustrative are these items:

"Where was R ____W— during the late, glorious war?"

"The monotonous and pertinacious Whitehill (was) expecting office."

An item of even lower ethical stature was a printed report that Whitehill's opposition stemmed from a conversation he overheard in a water closet from a disaffected member of the Virginia delegation.

Whitehill's stand in 1787, however, reflected the prevailing sentiment in his Cumberland constituency. Wilson, Montgomery and the other old Republicans preferred a strong Federal republic, but a confederation sufficed for the rest of the population. Commenting on the outcome of the convention, the "Carlisle Gazette" said:

> "Your names will shine illustriously in the pages of history and will be read with honor and grateful remembrance in the annals of fame while the names of the majority will be spurned and execrated by succeeding generations as the pillars of slavery, tyranny, and despotism."

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* This prediction deserves rank with that Harrisburg newspaper blooper of November, 1864, which rated as not memorable President Lincoln's remarks at the soldiers' graves in Gettysburg.

So strongly did the county support the Anti-Federalists that the attempt of Montgomery and Magaw to celebrate publicly four months after ratification incited a street fight which left opponents of the Constitution clearly the victors.

It should be noted that the violence in Carlisle was not typical of the reaction in other areas but rather was the most extreme result to be reported. Surging mobs burned Wilson and McKean in effigy, pledged undying opposition, and acted in such a way as to skirt the definition of rebellion. It seems quite likely that the Anti-Constitutional Riot of 1788 in Carlisle, if not a direct ancestor, was at least an older "kissing cousin" of a more prolonged uprising six years later and a few miles farther west, the famous "Whiskey Rebellion."

It should be said, too, that the Anti-Federalists in their recalcitrance were reacting to an unique situation: only in Pennsylvania did their opponents fail to yield an inch to the anti-federalist position. In other states the Federalists compromised, promised to support amendments, and mollified the opposition. In Pennsylvania, despite the inland storm, they rode serene.


In Presbyterian Silver Springs Churchyard lies the almost illegible tombstone of "Robert Whitehill Esq." Close by are his wife Eleanor, his daughter Eleanor, and sons Joseph and James, who inherited the home.

## CHAPTER VIII -- New Directions

As the winter of 1787.88 gave way to spring, the news began to reach Cumberland County of the ratification of the Constitution by other States. When, in June, it became apparent that New Hampshire would ratify and, as the ninth State so to vote, assure the adoption of the Constitution, Robert Whitehill called together representatives of the townships of Cumberland County. Meeting on July 3, 1788, at "Stoney Ridge," the men opposed to the Federal Constitution issued to "the friends of liberty" a circular letter now in the possession of the Library of Congress which has significance for State and Nation, for from it might reasonably be traced both the founding of the Democratic Party and the Federal Bill of Rights.

So broad a claim demands a bit of examination, but even a cursory reading of the letter written in rural Cumberland County shows unequivocal determination both to organize a party and to secure civil rights. In the third paragraph Whitehill's meeting called for a statewide conference "to have proper persons put in nomination by the Delegates in conference, being the most likely method of directing the views of the electors to the same objects . ."

The first paragraph, on the other hand, makes quite clear the desire to change the Constitution and proposes that this be done by assembling in Harrisburg September 3, 1788, those persons "who conceive that a revision of the Federal system, lately proposed for the government of the United States, is necessary."

Unfortunately the minutes of the Stoney Ridge Conference have strayed, so that only hints of the temper of the group survive. The closing phrase of the letter probably shows best the mood of Whitehill and his friends whose frigid attitute toward the Constitution had not thawed during the long winter following the adjournment of the Convention. They hoped that "the state may unite in casting off the Yoke of Slavery and once more establish Union and Liberty."

In September thirty-three men from 10 of the 13 counties in the State sat down together in the 22 by 22 feet public room of "The Compass," the Ferry House of Federalist John Harris. Representing Cumberland County, which had called the "grand conference" were William Sterrett, Jonathan Hoge, and Robert Whitehill. Eight men present, in addition to Whitehill, were veterans of the Ratification Convention held the previous autumn. Again, the de-


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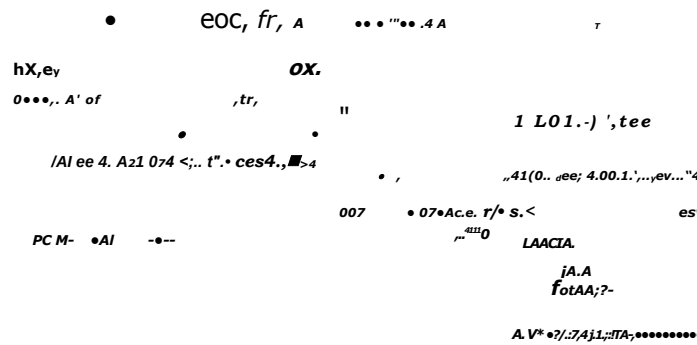

Courtesy **Library of Congress**

**This letter of July 3, 1788 called the Harrisburg Convention to draft a Bill of Rights and to form a political party. Letter and meeting were the brainchildren of Robert Whitehill.**

tails of the proceedings cannot exactly be ascertained, since the minutes of Secretary John Andre Hanna, another brother-in-law of John Harris, Jr., have not been preserved. Reliance must be made upon the notes penned by young Albert Gallatin, who wrote his memoirs many years later.

Reviewing the circumstances which brought thirty-three opponents of the Constitution to Harrisburg and united them into a formal political party, Paul L. Ford in "The Harrisburg Convention," finds that the men shared four basic attitudes. If we accept the thesis that organized Jeffersonian democracy and the Bill of Rights began with the Stoney Ridge and Harrisburg Conventions, then Ford's analysis bears examination.

According to Ford, certain feelings lay at the bottom of the hearts of Whitehill and his confreres: dread of any change which would destroy their own supremacy in the State and the concommitant control of patronage; fear that land taxes would be increased as a consequence of the power given the Federal government to regulate commerce; supposition that the national treaty power would be used to bargain away the Westerners' interest in the Mississippi-Ohio River System in exchange for benefits favoring coastal commercial interests; and apprehension that loyalist property would be restored to its former owners.

This final item caused particular concern in Cumberland County. Whitehill's party had capitalized on the issue during the 'eighties to the exasperation of John Montgomery, who attributed defeat at an election to a story circulated at a crucial date of a "plot" allegedly laid by him and Dr. Rush, leading trustees of Dickinson College, to return lands in Cumberland County to John Penn in exchange for the latter's support for the new institution of learning in Carlisle. Montgomery, in fact, pleaded with Rush to avoid even being seen with young Penn until after the election. Particularly fearful was Montgomery when one version of the story suggested that the Penns would be authorized to collect several decades accumulations of back quit rents.

After hearing Gallatin read a list of his own proposed Constitutional changes, the Harrisburg Convention hammered out a set of its own. Among them were the following:

1. A prohibition on either the executive or judicial branches assuming powers "by pretence of construction or fiction."

2. A statement that rights not granted the nation shall remain

with the states, and those not granted the states shall be reserved for the individuals.

3. Provisions enlarging the number of persons in the House of Representatives and providing for the recall of Senators at any time.

4. A section withdrawing from Congress the right to alter laws of the States in regard to the time, place, and manner of elections, except in cases where States would fail to act.

5. A provision requiring Congress first to request monies from the States before levying taxes directly.

6. A prohibition on a peacetime standing army except by consent of two-thirds of Congress, and a provision giving the States control of militia.

7. A provision limiting the jurisdiction of the Federal government over the proposed Federal District to matters of policing.

8. An amendment forbiding the creation of any court other than the Supreme Court and "such as shall be necessary for determining admiralty jurisdiction."

9. An addition that "appellate jurisdiction in all cases of common law cognizance be by Writ of Error and be confined to Matters of Law only, and that no such Writ of Error shall be admitted except in revenue cases, unless the matter in controversy exceed the value of three thousand dollars."

10. A provision saying "no treaty which shall hereafter be made shall be deemed or construed to alter or affect any law of the United States or any particular state, until such treaty shall have been laid before and assented to by the House of Representatives in Congress."

To achieve Anti-Federalist (Democratic) ends the Harrisburg Convention decided to utilize the "second" means provided in the Constitution for initiating amendments. Accordingly, it petitioned the State Assembly to ask Congress to call a convention to consider amendments. It is interesting to note that the General Assembly of Pennsylvania never formally received nor acted upon the petition, the Federalists by 1788 having assumed control of that body. Hence, as was the case for at least seventeen decades after 1788, the "second" method of securing amendments failed to bring about a change.

Before adjourning the group turned to the second purpose for which it had met. Experienced politicians, the Harrisburg conferees knew that the Federalist-controlled Assembly would frame an election law which would take advantage of the statewide pro-con-

stitutional majority. That is to say, the Convention accurately predicted a law which would provide that all voters in the State would vote for all Congressmen. The alternative, the familiar district system of election, would have produced at least several Anti-Federalist (Democratic) Congressmen, including any permitted Cumberland County. The Harrisburg slate-making can be traced to the Stoney Ridge -letter, too, for Whitehill had predicted in it a law providing "for electing eight members to represent the *state* in the new Congress."

Robert Whitehill and seven other men were designated on that slate for the first Congressional election. The eight lost, of course, to another slate nominated at a similar convention held a few weeks later in Lancaster by the Federalists.

Defeat in the election, of course, was not the significant event of 1788. Of over-riding importance was the stirring at Stoney Ridge, '.he organization at Harrisburg, and the continued pressure from the Cumberland frontier for written guarantees of individual freedom. One hundred seventy years after the event students of the era are reading the significance. In 1957 appeared one of the very first studies made of the origins of the Bill of Rights. The work of Judge Edward Dumbauld, "The Bill of Rights and What it Means Today," makes this evaluation:

"Amendments desired by the Pennsylvania minority were among the earliest to be brought to public attention, and undoubtedly influenced the subsequent state ratifying convention which proposed amendments . . . *Originality* is indicated in Pennsylvania's proposals —annual elections, a council, interest in killing game and fishing. Attention was given to the Pennsylvania minority by Madison and by Congress when considering the question of amendments in 1789."

In eight of the ten amendments ultimately adopted, according to Judge Dumbauld, the Pennsylvania minority was the first to propose an amendment on the subject matter treated therein.

As leader of the minority at the Ratification Convention, as father of the Stoney Ridge meeting and of the Harrisburg conference, Robert Whitehill clearly earned the honor of a place in the distinguished Dictionary of American Biography.

# Bill of Rights

The first Congress on September 25, 1789, submitted to the States twelve amendments. Pennsylvania ratified ten of these on March 10, 1790, and they went into force nationally on December 15, 1791. Rejected were amendments which (1) related to the apportionment of representatives and (2) specified that an election must intervene before a law could take effect raising the pay of senators and representatives.

**ARTICLE** I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

**ARTICLE IL**

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

**ARTICLE III.**

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

**ARTICLE IV.**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**ARTICLE V.**

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

**ARTICLE VI.**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to *be* informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

## ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

## ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

## Acknowledgments

Readers of "The Land in Cumberland Called Lowther " may recognize the pages above as a sequel, an attempt to tell by biography the story of the Manor in the years when Revolution became war. In the two decades after 1771, when the previous booklet ends, scarcely half a dozen heads of household lived in the Manor. One, however, was Robert Whitehill.

Professional historians have left generally untold the tale of the rural contribution to the beginning of the United States. This monograph, although essentially but a local history, may help fill part of the gap, for the man who dominates these pages on occasion was the spokesman for the entire Pennsylvania frontier.

The account, being limited by the amount an audience can accept orally at one setting, leaves Robert Whitehill very much alive, with the waning of the Revolution in 1788. "Counter - Revolution" and the temporary retirement of Robert Whitehill are to follow. His life during the quarter-century then remaining for him and his return to become President of the Senate and Member of Congress remain for another chapter in the history of the Manor.

Particular thanks go to Dr. Hubertis Cummings, English scholar and Pennsylvania historian, for his thoughtful study of the manuscript and his many suggestions. Appreciation is extended to the staff of the Pennsylvania Historical Commission for friendly advice on many matters. This work, short as it is, would not have been completed without the cheerful help of a number of curators, historians, scholars and members of both the Whitehill and Crist families. Dr. Whitfield J. Bell, of the Franklin papers; Mrs. Dorothy Eaton, of the Library of Congress; Donald Roy, of the Darlington Memorial Library; Miss Prudence Trimble, of the Western Pennsylvania Historical Society; and both Dr. Charles Sellers and Dr. Henry Young, of the Dickinson College faculty — these were most kind.

Very special thanks go to another who has lived across the street from the home of Robert Whitehill and wondered what stories it could tell. From the day she first mentioned the man as a deserving subject to the moment when she checked the proofs Miss Dorothy Kendall made significant contributions.